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TRANSCRIPT OF RECORD

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1959

No. 389

FEDERAL TRADE COMMISSION, PETITIONER

VS.

ANHEUSER-BUSCH, INC.

ON WRIT OF HABEAS CORPUS TO THE UNITED STATES COURT OF
APPEALS FOR THE SEVENTH CIRCUIT

PETITION FOR CERTIORARI FILED SEPTEMBER 9, 1959

CERTIORARI GRANTED NOVEMBER 9, 1959

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**SINGLE APPENDIX IN LIEU OF
SEPARATE APPENDICES**

IN THE

United States Court of Appeals

For the Seventh Circuit

No. 12284

ANHEUSER-BUSCH, INC.

Petitioner

vs.

FEDERAL TRADE COMMISSION

Respondent

Petition to Review and
Set Aside Order and
Decision of the Federal
Trade Commission

Summary Statement Under Rule 16(b)

The proceeding is brought under Section 2(a) of the Clayton Act, 15 U. S. C. 13, better known as the Robinson-Patman Act, and involves a charge of price discrimination in the sale of beer.

On April 19, 1955 the case was docketed and the Hearing Examiner, Frank Hier, was appointed. On April 29, 1955 the complaint was served, and respondent's answer was filed on June 17, 1955.

On September 13 through 15, 1955, hearings were held in St. Louis, Missouri. On September 15, 1955 respondent

Summary Statement Under Rule 16(b)

moved on the completion of the case presented by counsel supporting the case, to dismiss the complaint. Brief was filed on September 21, 1955. The motion was denied on October 3, 1955 after argument.

On December 12 through 16, 1955 and May 15, 1956 continued hearings were held in Washington, D. C.

Proposed findings, conclusions of law and order, with memorandum of law, were filed by counsel supporting the complaint on July 17, 1956 and by respondent on August 17, 1956.

On October 22, 1956 an order of the Hearing Examiner closing the case was filed.

On October 25, 1956 the initial decision of the Hearing Examiner, and order to cease and desist were filed, together with the Hearing Examiner's rulings on the proposed findings, conclusions and orders. These were served November 6 to November 8, 1956.

On November 13, 1956, a notice of appeal by respondent from Hearing Examiner's initial decision and order was filed.

On June 20, 1957, oral argument was had before the Federal Trade Commission on respondent's appeal from the order and decision of the Hearing Examiner, Commissioners Anderson and Kern not participating.

On September 10, 1957 an opinion and final order of the Federal Trade Commission, adopting the Hearing Examiner's initial decision and order to cease and desist after modification and order to file report of compliance were filed.

On September 18 through 20, 1957 the final order of the Federal Trade Commission was served.

An "Order correcting typographical error" by substituting a word in the final order dated September 10, 1957, was filed on October 4, 1957 and served on October 7, 1957.

(2)

Complaint

UNITED STATES OF AMERICA

BEFORE FEDERAL TRADE COMMISSION

In the Matter of**ANHEUSER-BUSCH, Inc., a corporation.**

The Federal Trade Commission having reason to believe that the party respondent named in the caption hereof, and hereinafter more particularly designated and described, has violated the provisions of subsection (a) of Section 2 of the Clayton Act (U. S. C. A. Title 15, Section 13) as amended by the Robinsen-Patman Act, approved June 19, 1936, hereby issues its complaint stating its charges with respect thereto as follows:

PARAGRAPH ONE: Anheuser-Busch, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Missouri, with its office and principal place of business located at 721 Pestalozzi Street, St. Louis 18, Missouri.

PARAGRAPH TWO: Anheuser-Busch, Inc., is primarily engaged in the sale and distribution of the alcoholic beverage beer under the brand name of "Budweiser" and "Michelob." "Michelob" is distributed solely as a draught beer while "Budweiser" is distributed both as draught beer and as a packaged beer, i.e., in bottles and in cans.

Complaint

Both brands are nationally advertised and enjoy wide public acceptance. Anheuser-Busch, in the sale of packaged beer, employs the basic unit of a case, the number of individual containers varying as to the size and type of container.

Anheuser-Busch, Inc., occupies a major position in the beer industry, being the nation's leading seller in 1953 and 1954 and is engaged on a nationwide basis in the manufacture and distribution of beer with manufacturing plants located at St. Louis, Missouri, Newark, New Jersey, and Los Angeles, California. Anheuser-Busch's gross domestic sales in 1954 were approximately 5,900,000 barrels.

(3) Anheuser-Busch, Inc., distributes its beer through many wholesaler-distributors located throughout the country who resell the commodity to dealers and dispensers in their trade areas. In certain metropolitan areas, distribution is effected through Anheuser-Busch, Inc., branches which sell directly to such liquor stores, chain grocery stores, bars, etc., generally termed "retailers."

PARAGRAPH THREE: Anheuser-Busch, Inc., in the course and conduct of its business has been and is now selling and distributing its beer in a constant stream of commerce from the States and places of manufacture to its customers and purchasers thereof located in States other than the States of manufacture of its product and there is now, and has been for many years, a constant current of trade and commerce, as "commerce" is defined in the Clayton Act, in said product between and among the various States of the United States and the District of Columbia.

Said product is sold and distributed for use, consumption, and resale in the various States of the United States and the District of Columbia.

Complaint

PARAGRAPH FOUR: Anheuser-Busch, Inc., in the course and conduct of its business is now, and during the times mentioned herein has been in substantial competition with others engaged in the manufacture, sale, and distribution of beer in commerce between and among the various States of the United States and of the District of Columbia.

PARAGRAPH FIVE: Anheuser-Busch, Inc., in the course and conduct of its business has discriminated in price between different purchasers of its beer of like grade and quality by selling it to some of its customers at higher prices than to other of its customers.

Historically, Anheuser-Busch has sold and distributed beer on the basis of regularly established premium prices generally substantially higher than those prices charged by the various local and regional competing breweries located throughout the United States. Such premium prices were constantly in effect during the calendar year of 1953, in which year Anheuser-Busch became the nation's leading seller and distributor of beer.

As of January 1, 1954, Anheuser-Busch was the fourth leading seller of packaged beer in the area of St. Louis County, Missouri, which includes the (4) city of St. Louis. On January 4, 1954, Anheuser-Busch reduced its previously established regular premium price of beer in St. Louis County, with a resultant rise from fourth to third place in sales volume in St. Louis County. In no other area in the United States did Anheuser-Busch similarly reduce its regularly established premium price.

On June 21, 1954, Anheuser-Busch made a further reduction from the previously established regular premium price of its beer in St. Louis County, thus lowering the price of Budweiser to the point where it exactly matched the established price charged for beer by its local com-

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petitors. Following, and as a result of, the above two reductions from its customary price, Anheuser-Busch became the leading seller of beer in sales volume in St. Louis County, Missouri, to which area its reduced prices were strictly confined. Prior to the foregoing price reductions Anheuser-Busch had approximately a 14% share of the packaged beer market in St. Louis county. Subsequent to, and as a direct result of, the foregoing price reductions, Anheuser-Busch captured approximately a 40% share of said market.

The above-described price reductions made by Anheuser-Busch through its St. Louis Branch to retailers in the St. Louis County area, on the various sized containers sold and the effective dates thereof are set forth below:

ST. LOUIS BRANCH

Price to Retailers (Net)

<i>Bottles</i>	<i>12-31-53</i>	<i>1-4-54</i>	<i>6-21-54</i>
24/12 oz. Ret. Reg.	2.93	2.68	2.35
24/12 oz. N.R. Reg.	3.29	3.16	2.81
24/12 oz. N.R. 4 6	3.29	3.16	2.83
12/32 oz. Ret. Reg.	3.41	3.41	2.96
12/32 oz. N.R. Reg.	3.80	3.65	3.11
36/7 oz. Ret.	2.90	2.75	2.60

Cans

12/12 oz.	1.67	1.60	1.51
48/12 oz. 8 6	6.68	6.40	6.08
24/12 oz. Reg.	3.34	3.20	2.99

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An example of the substantial price differences charged by Anheuser-Busch to its customers in St. Louis County following the above price reductions (5) from its established premium prices in comparison with the premium prices charged customers in other areas prior to and as of June 21, 1954, is herein set forth.

WASHINGTON BRANCH

Price to Retailers (Net)

<i>Bottles</i>	<i>11-1-53</i>	<i>6-21-54</i>
24 12 oz. Ret. Reg.	3.65	3.67
24 12 oz. N.R. Reg.	3.85	3.87
24 12 oz. N.R. 4/6	3.85	3.87
12 32 oz. N.R. Reg.	4.50	4.52
12 32 oz. N.R. 6/2	4.50	4.52
36 7 oz. Ret.	3.65	3.67

Cans

12/12 oz.	1.94	1.935
48/12 oz. 6/6	7.70	7.74
24 12 oz. Reg.	3.85	3.87

In no other area, served by one of its branches and at the times indicated herein, did Anheuser-Busch lower the customary premium price of Budweiser to the established price of regional or local competing beers. In all other areas of the United States Anheuser-Busch, in accordance with its customary practice, maintained the so-called differential in price between premium-priced Budweiser and the normally lower priced regional or local beers.

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PARAGRAPH SIX: The effect of such discriminations in price, as alleged in Paragraph Five herein, have been to divert substantial business from Anheuser-Busch's competitors to Anheuser-Busch, and have been and are sufficient to divert substantial business from competitors to Anheuser-Busch in the future; and there is a reasonable probability that the effects of Anheuser-Busch's said discriminations in price may be substantially to lessen competition in the line of commerce in which respondent and its competitors are engaged. The pricing practices of respondent also may tend to create a monopoly in the line of commerce in which Anheuser-Busch and its competitors are respectively engaged; or to injure, destroy, or prevent competition with Anheuser-Busch.

PARAGRAPH SEVEN: The foregoing alleged discriminations in price made by respondent Anheuser-Busch, Inc., are in violation of subsection (a) of Section 2 of the Clayton Act, as amended.

(6) WHEREFORE, THE PREMISES CONSIDERED, the Federal Trade Commission on this 19th day of April, A. D. 1955, issues its complaint against said respondent.

NOTICE

Notice is hereby given you, Anheuser-Busch, Inc., a corporation, respondent herein, that the 20th day of June, A. D., 1955, at 10 o'clock is hereby fixed as the time and St. Louis, Missouri as the place when and where a hearing will be had before Frank Hier, a hearing examiner of the Federal Trade Commission, on the charges set forth in this complaint, at which time and place you will have the right under said Act to appear and show cause why an

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order should not be entered requiring you to cease and desist from the violations of law charged in this complaint.

You are notified that the opportunity is afforded you to file with the Commission an answer to this complaint on or before the twentieth (20th) day after service of it upon you. Such answer shall contain a concise statement of the facts which constitute the ground for defense and shall specifically admit or deny each of the facts alleged in the complaint unless you are without knowledge, in which case you shall so state. Failure to file an answer to or plead specifically to any allegation of the complaint shall constitute an admission of such allegation.

If respondent desires to waive hearing on the allegations of fact set forth in the complaint and not to contest the facts, the answer may consist of a statement that respondent admits all the material allegations of fact charged in the complaint to be true. Such answer will constitute a waiver of any hearing as to the facts alleged in the complaint and findings as to the facts and conclusions based upon such answer shall be made and order entered disposing of the matter without any intervening procedure. The respondent may, however, reserve in such answer the right to submit proposed findings and conclusions of fact or of law under Rule XXI, and the right to appeal under Rule XXIII.

Failure to file answer within the time above provided and failure to appear at the time and place fixed for hearing shall be deemed to authorize the Commission and Hearing Examiner Frank Hier, without further notice, to find the facts to be as alleged herein and to issue the following order in this proceeding:

(7) IT IS ORDERED that the respondent, Anheuser-Busch, Inc., a corporation, engaged in commerce, as

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"commerce" is defined in the Clayton Act, and its officers, representatives, agents, and employees, directly or through any corporate or other device in the sale of beer of like grade and quality, do forthwith cease and desist from discriminating, directly or indirectly, in price between different purchasers, where either or any of the purchases involved in such discrimination are in said commerce, by selling said product to any purchaser at prices higher than the prices at which said product is sold by respondent to any other purchaser where respondent in the sale of said product to the purchasers charged such lower prices, is in competition with any other seller.

The inclusion of such order to cease and desist in this complaint will be without effect in the event you show cause, on or before the 20th day of June, A. D., 1955, why such order should not issue.

IN WITNESS WHEREOF, the Federal Trade Commission has caused this, its complaint, to be signed by its Secretary, and its official seal to be hereto affixed, at Washington, D. C., this 19th day of April, 1955.

By the Commission.

[SEAL]

s/ Robert M. Parrish
Robert M. Parrish,
Secretary.

(12)

Answer**UNITED STATES OF AMERICA****BEFORE FEDERAL TRADE COMMISSION**

COMES NOW the Respondent Anheuser-Busch, Inc. and files its answer to the Complaint herein:

PARAGRAPH ONE: ANSWERING PARAGRAPH ONE of the Complaint, Respondent admits the allegations of said paragraph.

PARAGRAPH TWO: ANSWERING PARAGRAPH TWO of the Complaint, Respondent admits that it is primarily engaged in the sale and distribution of alcoholic beverage beer under the brand name of "Budweiser" and "Michelob" and that Michelob is distributed solely as a draught beer, while Budweiser is distributed both as draught beer and as a packaged beer, i.e., in bottles and in cans. Respondent further admits that in the sale of packaged beer it employs the basic unit of a case, the number of individual units varying as to the size and type of container. Respondent denies that both "Budweiser" and "Michelob" are nationally advertised and enjoy wide public acceptance, but admits that "Budweiser" is nationally advertised, although to a lesser extent than other beers, and (13) alleges that many other beers are advertised much more extensively than Budweiser beer is in certain areas of the United States. Respondent further admits that Budweiser enjoys public acceptance, but alleges that there are certain other beers that enjoy a public acceptance equal to Budweiser on a national basis and many other beers which in specific geographical areas enjoy public acceptance substantially greater than Budweiser.

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Respondent admits that it was the nation's leading seller of beer in 1953 and 1954, that it manufactures beer at plants located at St. Louis, Mo., Newark, N. J. and Los Angeles, Cal., that it is engaged in the distribution of beer on a nationwide basis and that its gross domestic sales in 1954 of beer were approximately 5,550,000 barrels.

Respondent further admits that it sells its beer to many wholesaler-distributors licensed by State and Federal authorities located throughout the country who resell the commodity to licensed dealers and dispensers in their trade areas, and that in certain Metropolitan and other areas sales are effected through its branches directly to licensed liquor stores, chain grocery stores, bars, etc., generally termed retailers; except as so admitted, Respondent denies each and every allegation contained in PARAGRAPH TWO of the Complaint.

PARAGRAPH THREE: ANSWERING PARAGRAPH THREE of the Complaint, Respondent admits that in the course and conduct of its business it has been and is now selling and distributing its beer in a constant stream of commerce from the States and (14) places of manufacture to some of its customers and purchasers thereof located in some of the States of the United States other than the States of manufacture of its product and there is now, and has been for many years, a constant current of trade and commerce as "commerce" is defined in the Clayton Act, in said products between and among some of the various States of the United States and the District of Columbia; except as so admitted, Respondent denies each and every allegation contained in PARAGRAPH THREE of the Complaint.

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PARAGRAPH FOUR: ANSWERING PARAGRAPH FOUR of the Complaint, Respondent admits the allegations of said paragraph.

PARAGRAPH FIVE: ANSWERING PARAGRAPH FIVE of the Complaint, Respondent admits that on January 4, 1954 it reduced the price of Budweiser beer in St. Louis County; admits that on June 21, 1954 it reduced further the price of Budweiser beer in St. Louis County; admits that the prices set forth on the tables contained therein were the prices actually charged at the times indicated; except as so admitted, Respondent denies each and every allegation contained in PARAGRAPH FIVE of the Complaint.

PARAGRAPH SIX: ANSWERING PARAGRAPH SIX of the Complaint, Respondent denies each and every allegation contained in said paragraph of the Complaint.

PARAGRAPH SEVEN: ANSWERING PARAGRAPH SEVEN of the Complaint, Respondent denies each and every allegation contained in said paragraph of the Complaint.

(15) AFFIRMATIVE DEFENSES: Respondent alleges:

(1) That the difference from time to time between the prices charged by it in the sale of its products of like grade and quality to its different customers was and is necessitated by and made in good faith to meet the equally low prices of a competitor or competitors.

(2) That the difference from time to time between the prices charged by it in the sale of its products of like grade and quality to its different customers was and is in re-

Answer

sponse to changing conditions affecting the market for and the marketability of the products.

(3) That the difference in price of packaged Budweiser beer sold to licensed retailers in St. Louis, Mo. and Washington, D. C. was and is justified by differences in the cost of manufacture, sale and delivery.

(4) That the maintenance of this action against Respondent is not in the public interest.

WHEREFORE, Respondent prays that said Complaint be dismissed.

Respectfully submitted,

ANHEUSER-BUSCH, Inc., Respondent

By Dwight D. Ingamells
Dwight D. Ingamells,
General Counsel

By Edgar Barton
Edgar Barton

WHITE & CASE
14 Wall Street
New York 5, N. Y.

By Harold F. Baker
Harold F. Baker

SARGENT, GRAVELLE, WHITLOCK & MARRAS
Shorham Building, Washington, D. C.

Initial Decision

Filed October 25, 1956

UNITED STATES OF AMERICA**BEFORE FEDERAL TRADE COMMISSION**

Frank Hier, Hearing Examiner

Francis C. Mayer and Philip R. Melancton, for the Commission;

¹ Dwight Ingamells, St. Louis, Missouri, White & Case, by Edgar Barton and Howard J. Abel, all of New York, N. Y., and Gravelle, Whitlock & Markey, by Harold F. Baker, of Washington, D. C., for the respondent.

Formal complaint herein, issued April 19, 1955, charged respondent with price discrimination in violation of Section 2(a) of the Clayton Act, as amended (15 U. S. C. 13), in drastically cutting its price of beer in St. Louis and St. Louis County, while maintaining it elsewhere in the Nation, thereby causing substantial competitive injury to respondent's competitors in the reduced area through loss of sales to them and consequent gain to it. Respondent's answer, filed June 17, 1955, admitted descriptive and jurisdictional facts, the reductions and their amounts, denied discrimination and the effects alleged therefrom, and affirmatively pleaded that such price reductions were made in good faith to meet the equally low prices of competitors; were made to meet changing market (263) conditions and were justified by differences in the cost of manufacture, sale and delivery as between areas. After ten hearings,

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resulting in 1118 pages of transcript, and 73 exhibits for the proponent, 217 for the respondent (one of the latter being 15 feet long), the trial wound up on May 15, 1956, after which proposed findings of fact, conclusions of law and briefs were filed with me by all counsel. Upon these and the remainder of the record in this case, I make the following:

FINDINGS OF FACT

1. Anheuser-Busch, Inc. (hereinafter referred to as A. B.) is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Missouri, with its office and principal place of business located at 721 Pestalozzi Street, St. Louis, Missouri.

2. A. B. is primarily engaged in the distribution and sale of alcoholic malt beverages under the brand names of "Budweiser," "Busch Bavarian," "Busch Lager" and "Michelob." "Michelob" is distributed solely as a draught beer, "Busch Bavarian" solely as a packaged beer, while "Budweiser" and "Busch Lager" are distributed both as a draught beer and as a packaged beer—in bottles and in cans. A. B. in the sale of packaged beer employs the basic unit of a case, the number of individual containers therein varying as to size and type. A. B. produces these beers in breweries located at St. Louis, Missouri, Newark, New Jersey, and at Los Angeles, California.

3. A. B. now occupies, and for many years has occupied, a major position in the brewing industry on a nationwide basis, as illustrated by the following comparative table:

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	<i>Total Paid Tax With inicals U. S.</i>	<i>A. B. Gross Sales</i>	<i>Percentage of Total</i>	<i>National Rank</i>
1952	84,836,480 bbls.	6,034,443	7.11	2
1953	86,045,116 "	6,711,222	7.8	1
1954	83,305,402 "	5,828,760	7.0	1
1955	84,974,175 "	5,616,793	6.61	2

A. B.'s assets in 1954 were \$165,000,000.

(264) 4. A. B. has been, and is now, selling its beers in a constant stream of commerce, as "commerce" is defined in the Clayton Act, from the states and places of manufacture to customers and purchasers located in other states, and there is now, and has been, a constant current of trade in such commerce between and among some of the various states of the United States and the District of Columbia in substantial competition with other brewers similarly selling and distributing beer in such commerce.

5. A. B. sells and distributes approximately 75% of its beers through some 700 wholesaler distributors who resell to licensed dealers and dispensers in their individual trading areas, and approximately 25 percent through 18 branches of respondent, located in various metropolitan areas directly to bars, liquor stores, chain grocery stores and other retailers.

6. Beer production is widely diffused, primarily because it is a bulky product with high shipping costs relative to unit value. Other contributing factors are the great variety of laws and other regulations in the various states for licenses, the size of containers, the use and amount of advertising, and taxes. This has resulted in the crea-

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tion and functioning of many local competitive trading areas, usually centering around one or more localized breweries, whose orbit of competition varies directly with the public acceptance of the taste, body, and effect of its particular brand, plus, of course, its financial resources and selling drive. Thus, there are beers which are sold only in one city, or one county, or only one state, or within a small mileage radius from the brewery which may cover parts of several states. These have been referred to in the record as "local" beers. Others sell throughout a multiple state area, but not nationally, in significant volume. These have been referred to as "regional" beers. Five brewers—A. B., Schlitz, Pabst, Miller and Blatz—because they sell and ship into all states in significant volume are referred to as "national" beers, and there are a few others. It is true, as respondent's counsel insist, that a given beer may be classed as regional in one place, local in another, and national in another and, therefore, the three terms have no fixed or constant meaning, competitively or price-wise. Nevertheless, they are handy, if loose, descriptions of their sales orbit, geographically, and the respondent itself in its sales surveys, memoranda and general business operations uses them. (265) For the purposes of this decision a "local" beer will mean one which is sold in substantial volume in three states or less, a "regional" beer, one which is sold in more than three but less than 48 states in substantial volume, and a "national" beer, one which is sold in such volume in all 48 states.

7. Retail distribution is through two distinct channels—off-premise and on premise consumption—package stores and supermarkets on the one hand—taverns, bars, and restaurants on the other. Practically all draught beer is con-

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sumed on-premise, and in 1934 after the repeal of prohibition, 75 percent of all beer produced in the United States was for on-premise consumption. However, since then, due perhaps to the increasing movement to the suburbs, television, and the broadcasting of sporting events, the decline of the tavern as a community social and recreation center, and the shorter work week, the flow had been almost reversed so that in 1954 only 35 percent of the beer produced was consumed on the premises. In 1934 there was only an insignificant amount of beer sold by grocery stores. Today more than 50 percent of all packaged beer consumed off-premise is bought in grocery stores.

8. All of the above distributive characteristics directly affect price and competition in any given market. There are many more. Most brewers price f.o.b. the brewery. To this must be added varying freight costs, taxes by states, counties and cities, and varying markups by distributor and retailer. Local social and economic conditions also have their effect. All of them are beyond the control of the brewers, yet the price to the consumer is controlled by them.

9. The complaint in this proceeding alleges that "historically, A. B. has sold and distributed beer on the basis of regularly established premium prices generally substantially higher than those prices charged by the various local and regional competing breweries located throughout the U. S." This allegation is denied and vigorously contested by respondent, which introduced voluminous statistical data to show the contrary. Counsel supporting the complaint do not claim this allegation to mean that there is a uniform or constant differential in price obtained by

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A. B. over prices obtained by regional and local beers. They concede it varies from market to market in amount, that it varies on the various markets from time to time, and that there may be more than one differential in any given market; but they insist that in the great majority of markets there is some premium obtained by A. B. over the prices of its regional and local competitors. (266) The record amply sustains this position. According to a survey conducted by respondent itself, of 78 major markets, considered by it to be a representative cross section of the country, out of 113,305 price comparisons between A. B.'s Budweiser beer and all other regional or local beers (so characterized by A. B.), 100,392, or 88.6%, showed a differential of 5¢ per bottle or can, or more, higher for Budweiser. Over local beers only, 93.2% of the price comparisons showed a differential up to 10¢ per bottle in favor of Budweiser. This same survey, comparing differentials as between May 1954 and October 1953, show many shifts and changes from no differential to a differential and vice versa, as well as many shifts in the amount of differential, but the fact remains that in the overwhelming majority of instances there was some differential. A September 1955, pendente lite new survey by A. B. reduces the above percentages in some degree, depending on the classification of one or more beers, nevertheless it does not change the picture that in by far the greater majority of markets and instances, on both the price to the consumer and to the retailer, Budweiser commands a higher price than local and regional beers. This statistical evidence is confirmed, particularly in its historical aspect, by the testimony of the qualified officials of A. B.'s three most competitive St. Louis competitors, who sell regionally over wide areas, and by a representative number of beer retailers, called by re-

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spondent for other purposes. All of these testified categorically to that effect, and none of them could recall a single instance where Budweiser sold at the same price as the brands put out by the three St. Louis breweries adverted to above—always commanding some differential. Finally and conclusively, A. B. itself has published large advertisements, at the time of the St. Louis price reduction hereinafter described, stating:

“Now you can enjoy Budweiser at ordinary beer prices”;

“The same Budweiser that still sells at premium prices around the world”; and

“The same Budweiser that outsells any other beer.”

Such assertions broadcast by respondent to obtain or increase sales cannot now be gainsaid or watered down by respondent. The finding on this point, accordingly, is that most of the time, and in the large majority of the nation's markets, Budweiser was sold by A. B. at some favorable price differential or differentials over beers of local or regional distribution.

(267) 10. In the spring of 1953, the brewery workers' union struck all the plants of the national shipping Milwaukee brewers—Schlitz, Pabst, Millers, and Blatz—most of the “national” beers. The strike was drawn out until August of 1953, the settlement being for increased wages. A. B. was not struck and enjoyed substantial sales increases nationally with its national shipping Milwaukee competitors out of production. Although A. B. was not struck, it, too, signed a wage-increase contract, and, as a result, on October 1, 1953, it and its Milwaukee “national”

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beer shipping competitors increased prices generally in varying amounts, depending upon locality. The three St. Louis brewer competitors of A. B.—Falstaff Brewing Corporation (hereinafter referred to as Falstaff), Griesedieck Western Brewery Company (hereinafter referred to as G. W.), and Griesedieck Brothers Brewery Company (hereinafter referred to as G. B.) did not follow this raise in prices or make any increase in prices, continuing to sell in the St. Louis market (St. Louis and St. Louis County) at \$2.35 per 24, 12-oz. case of bottles, although many other regional and local brewers in other sections of the United States did so. There was, as a result, a decline in sales for the industry generally, and a sales decline for A. B. specifically from 418,667 barrels in November 1952, to 404,908 barrels in November 1953, nationally. Comparable figures for December of 1952, were 478,647 barrels as against 457,640 barrels in 1953. A sales graph comparing A. B. sales with industry sales, month by month, 1953 with 1952, shows industry sales in October 1953 even with October 1952, but A. B. sales 44% greater in October 1953 than in 1952, whereas in November 1953, A. B. sales were only 5% greater than in the same month of 1952, and industry sales 5% less, but in December 1953, industry sales were off only 8% compared with December 1952, whereas A. B. sales were 30% under 1952. In some states A. B.'s sales declines ranged as high as 83%. This, however, was not the picture in the St. Louis market, where A. B. and Falstaff gained in 1953 over 1952, as shown by the following table:

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	<i>Barrels</i>			
	<i>1952</i>		<i>1953</i>	
	<i>November</i>	<i>December</i>	<i>November</i>	<i>December</i>
A. B.	15,841	18,148	17,306	20,239
Falstaff	20,796	24,973	24,547	29,218
G. B.	14,003	16,559	12,491	14,177
G. W.	30,715	35,471	26,731	32,509

(268) 11. As of January 3, 1954, A. B. was selling its standard 24 12 oz. cases of regular returnable bottles out of its direct-to-retailer branches at the following prices net to the retailer:

St. Louis, Mo.	\$2.93	Washington, D. C.	\$3.65
Chicago, Ill.	3.44	Detroit, Mich.	3.55
Cincinnati, Ohio	3.75	Boston, Mass.	3.69
Houston, Texas	3.70	Kansas City, Mo.	3.15
Bronx, New York	3.68	St. Paul, Minn.	3.53
Kearney, Nebr.	3.68	Sioux Falls, S. Dak.	3.50
St. Joseph, Mo.	3.17	Denver, Colo.	—
Buffalo, N. Y.	3.60	San Francisco, Calif.	3.79
Baltimore, Md.	3.62	Los Angeles, Calif.	3.80

12. On January 4, 1954, on this same unit of sale, A. B. reduced its price from \$2.93 to \$2.68 in the St. Louis market, and again on June 21, 1954, cut its prices on the same unit of the same beer to \$2.35, which was and had been the price on the same unit charged and received by A. B.'s three above-named St. Louis brewer competitors, A. B.'s price changes are shown by the following table:

*Initial Decision**Net to Retailer*

<i>Bottles</i>	<i>12-31-53</i>	<i>1-4-54</i>	<i>6-21-54</i>
24 12 oz. Ret. Reg.	2.93	2.68	2.35
24 12 oz. N.R. Reg.	3.29	3.16	2.81
24 12 oz. N.R. 4-6	3.29	3.16	2.83
12 32 oz. Ret. Reg.	3.41	3.41	2.96
12 32 oz. N.R. Reg.	3.80	3.65	3.11
36 7 oz. Ret.	2.90	2.75	2.60

Cans

12 12 oz.	1.67	1.60	1.51
48 12 oz. 8-6	6.68	6.40	6.08
24 12 oz. Reg.	3.34	3.20	2.99

Draught

Budweiser	12.98	12.98	12.48
Michelob	13.98	13.98	13.98

Nowhere else except in the St. Louis market did A. B. make the same or any comparable reduction in price.

(269) 13. From this, the complaint charges, and counsel in support thereof contends, that A. B. discriminated in price among its customers, namely, that by cutting and eliminating the price differential to its customers in the St. Louis market, it discriminated against its customers in other markets by continuing to charge them higher prices. Respondent contests this, claiming that because its prices vary from market to market, and are not level or uniform throughout the rest of the nation, that because the amounts by which its prices exceed those of local and regional brewers in those markets likewise vary, that in some few

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markets there is no excess differential, that these differentials may change momentarily, and A. B. cannot alone maintain them, there can be no discrimination. These arguments are all specious on this record. The fact is that in more than 80% of its markets, A. B. did set its prices to obtain such differentials—that it was obtaining them—that it did not cut its prices anywhere so as to eliminate or materially diminish them except in the St. Louis market, a situation which is the classic regional price discrimination, with competitively unimportant embroidery. *Porto Rican American Tobacco Co. v. American Tobacco Co.*, 30 F. 2d 234; *E. B. Muller & Co. v. F. T. C.*, 142 F. 2d 511; *Moore v. Mead's Fine Bread Co.*, 348 U. S. 115; in *re Maryland Baking Company*, Docket 6327; in *re General Foods Corp.*, Docket 5675; and others. The finding, accordingly, is that on January 4, 1954, and until June 21, 1954, and on June 21, 1954, and subsequent thereto until 1955, respondent did discriminate in the price of its beer, between its customers located in the St. Louis market and elsewhere by the price reductions in that market, above set out.

14. The St. Louis breweries distribute and sell as follows: A. B. in all 48 states; G. B. in 13 states, Alabama, Arkansas, California, Illinois, Indiana, Iowa, Kansas, Kentucky, Missouri, Mississippi, Oklahoma, Tennessee and Texas; Falstaff in 26 states in the West, Midwest, South, and Southeast; G. W. in 20 states, west to California, east to Pennsylvania, south to Georgia, and north to Wisconsin and Michigan. As of January 1, 1954, G. B. sold about 24% of its output in the St. Louis market, Falstaff about 14%, G. W. about 25%, and A. B. about 31½%.

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15. For the year 1953, the respective shares of the St. Louis market in packaged beer by these four St. Louis brewers were: A. B. 12.5%, G. B. 14.4%, Falstaff 29.4%, and G. W. 38.9%. For the first six months of 1954, following and (270) including the first price reduction by A. B. on January 4, 1954, but not including, to any appreciable extent, sales after the second price reduction on June 21, 1954, these market shares changed as follows: A. B. 16.55%, G. B. 12.58%, Falstaff 32.05%, and G. W. 33%, or, in terms of rank, G. W. remained first, Falstaff remained second, but A. B. replaced G. B. as third, the latter becoming fourth. During this time the total packaged beer sales for the first six months of 1954, as compared with the comparable 1953 period, increased from 5,947,144 to 6,110,326 statistical cases, or 2.7%. However, 122,991 of the cases, represented the increased sales of "all other beers," that is, beers shipped into the St. Louis market by breweries located elsewhere, such as Milwaukee, so that the increase in total market package beer sales of 163,182 (6,110,326 minus 5,947,144) is in fact reduced to 40,191 cases, or an increase in total local brewery packaged sales of only .68%. With "all other [outside] beers" thus increasing in sales, it is obvious that A. B.'s increase in market share from 12.5% to 16.55% must have come from corresponding losses by G. B. and G. W. of 1.82% and 5.9% respectively. This first price reduction was accompanied by changes in, and a stepping up of, sales activity by A. B. by changing from telephone solicitation of orders to a route-wagon system of solicitation and delivery which converted every driver into a personal-solicitation salesman, and a great expansion of its advertising in the St. Louis market.

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16. It was, however, after the June 21, 1954, price reduction by A. B. that the roof really fell in on the St. Louis market. As above set out, this reduction was from the January 4, 1954, price of \$2.68 per case of 24 12 oz. regular returnable bottles to \$2.35, exactly the same price, for the same unit, as G. B., Falstaff and G. W. had been selling at for a number of months. This reduction remained in force until March 1, 1955, shortly before formal complaint herein was issued, at which time A. B. increased its price to \$2.80 for the same unit. Shortly thereafter G. B., G. W., and Falstaff increased their beer prices on the St. Louis market for the same sales unit from \$2.35 to \$2.50. The differentials between A. B. and the other three mentioned brewers in the St. Louis market were thus 58¢ prior to January 4, 1954; 33¢ from January 4, 1954, to June 21, 1954; no differential from June 21, 1954, to March 1, 1955; and 30¢ thereafter, all differentials being in favor of A. B.

(271) 17. The impact of this second price reduction by A. B. on its own sales was to increase A. B.'s share of the St. Louis market progressively to the following percentages: July 37.6% ; August 37.3% ; September 37.5% ; October 35.7% ; November 34.1% ; December 38.1% ; January 1955 33.2% ; February 1955 39.3% , whereas Falstaff's percentage share of the same market decreased from 29.6% in June of 1954 to 25.7% in July, 26.1% in August, 26.8% in September, 28.1% in October, 29.4% in November and December, 30.2% in January 1955, and 29.1% in February 1955. More striking decreases were suffered by the other two. G. B. declined from 11.2% in June 1954 to 8.3% in July, 8% in August, 7.9% in September, 7.8% in October, 8.8% in November, 7.9% in December, 5.3% in January, and 4.8%

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in February of 1955. G. W. had 29.3% of the St. Louis market in June 1954; slid to 21.3% in July, 22% in August, 21.3% in September, 22.5% in October, 22.9% in November, 21.7% in December, 27% in January of 1955, and 23.1% in February of 1955. In rank A. B. jumped into first place by a wide margin and held that position throughout the eight-months' period. The St. Louis market, on the other hand, in total sales increased about 9.2% (9,174,278 [July 1954 through February 1955], as against 8,397,770 [same period 1953-1954]) or an increase of 776,508 cases. A. B., on the other hand, sold only 1,121,065 cases in the same period 1953-1954, but 3,380,648 cases during the comparable period July 1954-February 1955, an increase of 201.5%, or a tripling of case sales.

18. The full statistical and sales volume picture for both price reductions is shown by the following tabulations:

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ST. LOUIS AND ST. LOUIS COUNTY—PACKAGE BEER

	ANHEUSER-BUSCH, INC.			AREA TOTAL SALES		
	<i>Statistical Cases</i>	<i>Share of Total</i>	<i>% Change Previous Year</i>	<i>Statistical Cases</i>	<i>Share of Total</i>	<i>% Change Previous Year</i>
1954						
Jan.	197,283	14.0	+ 25.1	766,088	100%	+ .08
Feb.	121,620	14.5	+ 36.8	837,225	100%	+ .56
Mar.	130,663	13.8	+ 31.3	949,409	100%	+ .51
Apr.	165,853	15.6	+ 41.3	1,069,655	100%	+102
May	165,526	15.5	+ 16.5	1,070,765	100%	+ .35
June	320,127	22.6	+ 86.0	1,417,184	100%	+ .03
July	542,779	37.6	+ 206.7	1,442,573	100%	+ .15
Aug.	475,897	37.3	+190.9	1,277,121	100%	+102
Sept.	457,966	37.5	+199.6	1,220,501	100%	+ .58
Oct.	374,994	35.7	+163.2	1,050,467	100%	- 1.6
Nov.	335,326	34.1	+196.7	981,968	100%	+110
Dec.	421,575	38.1	+194.3	1,105,990	100%	+ .32
Total	3,619,609	27.4	+126.5	13,188,946	100%	+ .35

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ST. LOUIS AND ST. LOUIS COUNTY—PACKAGE BEER

ANHEUSER-BUSCH, INC.			ST. LOUIS AREA TOTAL SALES		
<i>Statistical Cases</i>	<i>Share of Total</i>	<i>% Change Previous Year</i>	<i>Statistical Cases</i>	<i>Share of Total</i>	<i>% Change Previous Year</i>
274,513	33.2	+ 155.9	827,783	100%	+ 8.1
497,598	39.3	+ 309.1	1,267,875	100%	+ 51.4
193,478	24.5	+ 48.1	790,909	100%	- 16.7
182,651	19.5	+ 10.1	936,458	100%	- 12.5
217,584	19.0	+ 31.5	1,146,239	100%	+ 7.0
257,641	21.0	- 19.5	1,226,733	100%	- 13.4
283,564	21.9	- 47.8	1,297,951	100%	- 10.1
266,729	19.8	- 44.0	1,346,517	100%	+ 5.4
233,420	20.0	- 49.6	1,165,395	100%	- 4.5
172,962	19.0	- 53.9	911,064	100%	- 13.3
183,602	19.1	- 45.2	959,011	100%	- 2.3
219,220	20.7	- 48.0	1,061,488	100%	- 4.0
2,982,962	23.0	- 17.6	12,936,647	100%	- 1.9

F A L S T A F F

1955

1954						
Jan.	250,712	32.7	+ 16.6	250,185	36.2	- 0.2
Feb.	279,860	33.4	+ 27.0	369,373	29.1	+ 32.0
Mar.	312,568	32.9	+ 24.0	233,447	29.5	- 25.3
Apr.	349,016	32.6	+ 27.8	351,055	27.5	+ 1.6
May	346,504	32.3	+ 9.1	431,846	37.7	+ 21.0
June	419,739	29.6	+ 4.5	361,963	37.7	+ 10.1
July	371,790	25.7	- 8.2	498,260	38.4	+ 24.0
Aug.	332,896	26.1	- 9.7	529,218	39.3	+ 59.0
Sept.	326,809	26.8	- 9.4	472,019	40.5	+ 44.4
Oct.	295,031	28.1	- 12.0	380,130	41.7	+ 28.8
Nov.	289,066	29.4	- 0.3	401,112	41.8	+ 38.8
Dec.	324,994	29.4	- 7.2	442,964	41.7	+ 36.3
Total	3,899,015	29.6	+ 3.9	4,821,572	37.3	+ 23.7

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ST. LOUIS AND ST. LOUIS COUNTY—PACKAGE BEER

GRIESEDIECK BROS.

	<i>Statistical Cases</i>	<i>Share of Total</i>	<i>% Change Previous Year</i>	<i>Statistical Cases</i>	<i>Share of Total</i>	<i>% Change Previous Year</i>
1954				1955		
Jan.	99,493	13.0	—14.7	44,140	5.3	—35
Feb.	107,151	12.8	—12.7	60,354	4.8	—47
Mar.	123,552	13.0	—10.3	68,314	8.6	—47
Apr.	142,410	13.3	—1.3	67,932	7.3	—52
May	137,814	12.9	—16.2	84,108	7.3	—50
June	158,098	11.2	—21.9	89,437	7.3	—44
July	120,201	8.3	—46.2	87,713	6.8	—27
Aug.	101,682	8.0	—32.7	94,746	7.0	—5
Sept.	96,171	7.9	—30.4	78,320	6.7	—5
Oct.	81,672	7.8	—42.8	60,488	6.6	—23
Nov.	86,667	8.8	—30.5	62,782	6.6	—27
Dec.	87,256	7.9	—30.8	69,068	6.5	—23
Total	1,342,167	10.2	—26.8	867,402	6.7	—24

GRIESEDIECK WESTERN

1954				1955		
Jan.	273,193	13.7	12.3	223,736	27.0	—58
Feb.	291,876	14.9	11.6	261,326	23.1	—42
Mar.	338,061	15.6	10.3	206,396	26.1	—58
Apr.	352,193	12.9	10.5	271,067	28.9	—27
May	347,192	12.4	22.6	332,132	26.0	—47
June	414,170	29.2	28.9	340,936	27.8	—17
July	307,126	21.3	—47.1	348,354	26.8	—43
Aug.	280,749	22.0	32.3	362,833	27.0	—20
Sept.	260,146	21.3	40.3	309,354	26.6	—50
Oct.	286,158	22.5	36.7	242,325	26.6	—2
Nov.	224,497	22.9	—29.7	251,380	26.2	—17
Dec.	239,697	21.7	—57.7	271,543	25.6	—43
Total	3,565,011	27.9	—28.0	3,453,576	26.7	—42

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I have rarely seen such a dramatic exhibition of economic power and price sensitivity in so short a time. Apparently the beer-consuming populace in the St. Louis market equates premium quality with premium price. The tremendous switch from other beers to Budweiser when the premium price was eliminated cannot, on this record, be otherwise accounted for. Apparently also it is the first 30¢ or less of premium or differential in price which touches off the reaction in the St. Louis market. Comparison of results from the January 4, 1954 and June 21, 1954 reductions shows this.

(274) 19. This is further illustrated and confirmed by the reaction to the March 1, 1955, increase in price from \$2.35 to \$2.80—45¢, the almost immediate increase of G. B., G. W. and Falstaff to \$2.50, or 15¢ increase—the differential then and since being 30¢. Gain and loss in market shares is shown by the following tabulation:

	<i>Dec. 31</i> <i>1953</i>	<i>June 30</i> <i>1954</i>	<i>March 1</i> <i>1955</i>	<i>July 31</i> <i>1955</i>
A. B.	12.5	16.55	39.3	21.03
G. B.	14.4	12.58	4.8	7.36
Falstaff	29.4	32.05	29.1	36.62
G. W.	38.9	33.	23.1	27.78
All Others	4.8	5.82	3.93	7.21

It is obvious that A. B.'s gains during the "price experiment" came from G. B. and G. W. Respondent claims that if market statistics are run through February 1956, almost a year after the complaint was filed, they show A. B.

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down to 17.9%. Regardless of what cut-off date is used, A. B. had only 12.5% of the market just before its first price reduction, but wound up after a price differential was re-established with from 18% to 21%, a gain of 5½% to 8½%. This, respondent characterizes as *de minimis*. But the record shows that such a percentage of market share in nearly every area of the United States is regarded by A. B. as highly significant if favorable, and highly dangerous if it is a loss.

20. This picture, counsel for the complaint contend, amply supports the effect charges of the complaint. Respondent's counsel, of course, contends the opposite. Their position boils down in reality to two points:

1. That the sales losses of competitors in the St. Louis market were caused by other factors than A. B.'s price reductions—factors unconnected therewith, and that the required effect has not been shown as a matter of law.
2. That A. B.'s price reductions were merely a meeting of the equally low prices of its competitors in good faith—that it was simply "testing the market" or "price experimenting" in good faith to find answers to its loss of national off-premise sales.

(275) 21. Before discussing these points some comment seems necessary on the basic charge in this case. Counsel seem to be solely preoccupied with the sites of injury—the St. Louis market—and to forget that the charge here is price discrimination and necessarily involving price differences between that St. Louis market and all other markets for A. B.'s products. The cutting of its premium

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in the St. Louis market, and its subsequent elimination are not violations per se, they are violations only in comparison with the maintenance of higher prices elsewhere, whether premium or not, because such maintenance enables A. B. to continue profitable operation in more than 90% of its business to subsidize less profit or even no profit on its operations in the St. Louis market, and if competitor injury occurs there, violation of the charging law is *prima facie* made out.

22. Counsel supporting the complaint contend, of course, that the above statistical and market picture, together with the testimony of responsible officials of the three St. Louis breweries, attributing all or the major part of their substantial sales losses in the eight months' period to A. B.'s price reduction amply sustains the charge that the latter diverted business to A. B., substantially lessened competition in the St. Louis market among these brewers, tended to create a monopoly in A. B. and injured, destroyed or prevented competition with A. B. The latter's counsel contend the negative of this factually and as a matter of law.

23. Factually they insist and have proved that G. W. had been progressively losing sales in the St. Louis market prior to 1954, that the management had likewise been maintaining a highly liquid cash position at the expense of renewal or (276) replacement of productive facilities, that it sold out to Carling Brewing Company in October 1954, at a price which reflected the good will to be about one-fifth of realizable net worth, and that therefore it was not injured. Of course, good will being an intangible depends on many other things than sales potentiality alone.

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As to G. B., respondent has shown that its sales too were progressively declining in the St. Louis market from a share thereof in 1950 of 18% to 14.4% in 1953, that in March 1954, G. B. replaced the beer it had theretofore been selling with an entirely new product which was badly named, poorly merchandised, bitter in taste and "wild"—that is, with an unstabilized air content, and offered the testimony of eleven saloon keepers and store-keepers that this new beer was disliked by the consumer, with the result that consumer sales thereof dropped sharply during the latter part of 1954, according to their testimony. None of this testimony was from retailers in the St. Louis market (which did and does seem most peculiar to me), but counsel assumes the same thing took place there—that the public taste was the same, or that the product defects were the same. Hence they claim G. B.'s sales loss was its own fault, not that of A. B.

24. Respondent prepared and introduced in evidence a sales graph showing actual packaged-beer sales in the St. Louis market for itself and its three principal competitors there for the years 1952, 53, 54, down to August 1955, and drew a "trend" line, averaged, equated or weighted, showing what would have been the average sales of each had no price upheaval taken place. This "trend" for 1954 and 1955 belies the contention that causes other than A. B.'s price reductions are the sole explanation for its competitors' sales losses. According to it, G. W. would have normally had, and in fact did have, in March of 1954, a market share of 35%; that absent price raids, and based on the previous 27 months' performance, its share would have decreased from 35% to 30.75% by February 1955. In fact, however, G. W. sank precipitately to about 26% in

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July 1954, and never thereafter approached its projected trend until after the price increase in March 1955. The same thing is true for G. B., although in less exaggerated fashion. There the losses ranged from about 3% below trend in July 1954, to about 6% below trend in February 1955. Furthermore, prior to the June 1954 price reduction of A. B., G. B.'s largest sales decrease over the same month or year previous had been 16.2%, but thereafter the comparable percentage loss ranged from a low of 30.5% to a high of 55.6%. The argument of counsel for respondent that the testimony of eleven retailers from outside the St. Louis market of their customers' dissatisfaction with (277) G. B.'s new beer and the falling off in sales thereof for that reason was the real reason for G. B.'s sales losses in the St. Louis market, rather than A. B.'s price reductions, is refuted by a comparison of G. B.'s sales losses as between the St. Louis market and the rest of its selling area. Thus exhibits show sales losses of G. B. in the St. Louis market for the last six months of 1954 at 38.44% of the last six months of 1953, whereas a comparable figure for the rest of G. B.'s territory was only 19.32%. Comparable figures for the first six months of 1955 were 45.90% for the St. Louis market and 29.49% for outside St. Louis. The conclusion is that A. B.'s price reductions in the St. Louis market were not the insignificant factor counsel contends, but greatly accelerated an existent slow but steady sales decline in that area of G. B. and G. W. It is one thing to descend several flights of stairs yourself; it is quite another to get thrown down the last flight by others. Murder is none the less murder, even though the victim, medically, may not have long to live.

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25. As to the third major St. Louis competitor, Falstaff, respondent seems to argue that because it has eight breweries strategically located in six states, and was, prior to 1954, progressively selling more beer each year and only lost about 4% market share during A. B.'s price reductions, no injury can be found, since Falstaff only had about 14.4% of its business in the St. Louis market. But this record abundantly shows that a much smaller percentage of business in any market is regarded as vastly important to A. B. Why then assume that 14.4%, 20% or 25% of total business are not vital to its competitors? It is significant that July of 1954 was the first month in 18 in which Falstaff showed a decrease in sales over the corresponding month of the previous year, and that decreases consistently continued throughout 1954, reaching a 32% loss in February of 1955. After A. B. again raised its price on March 1, 1955, Falstaff's interrupted upward march was resumed. The conservative sales estimates of Falstaff, projected for 1954 by Falstaff as to what it expected for 1954, based on immediate past performance, show them far more than realized after A. B.'s price reductions, with the exception of one month, December 1954. Unlike G. B. and G. W., Falstaff is a picture of arrested and reversed progress, rather than acceleration of decline; but nevertheless fulfills the prescribed statutory requirement of effect, just as fully, although perhaps not as vividly. Since these three brewers, excluding A. B., account for the overwhelming volume of beer sold in the St. Louis market, the picture is one not only of injury to competitors but of injury to their (278) line of commerce. As a factual matter, then, the finding is that A. B.'s successive price reductions, which discriminated price-wise against its customers in other markets, did divert sub-

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stantial business to A. B. from its competitors in the St. Louis market; did substantially lessen their competition in their line of commerce, and did tend to create a monopoly, and had the potentialities to continue to do so.

26. Respondent contends, however, that as a matter of law, such a finding cannot be made and carefully reviews seven area price-discrimination cases, four by the courts, three by the Commission, which have dealt with territorial price discriminations. *Porto Rican American Tobacco Co. v. American Tobacco Co.*, 30 F. 2d 234; *E. B. Muller & Co. v. F. T. C.*, 142 F. 2d 511; *Moore v. Mead's Fine Bread Co.*, 348 U. S. 115; *Maryland Baking Company, F. T. C. Docket 6327*; *Balian Ice Cream Co. v. Arden Farms Co.*, 104 F. Supp., 231 F. 2d 356; *Purex Corp., Ltd., F. T. C. Docket 6008*; *General Foods Corp., F. T. C. Docket 5675*. *Balian, Purex, and General Foods* were dismissed, no causal relationship between price discrimination or price differences and competitive injury being shown; the remainder resulted in orders to cease and desist or decrees or judgments. Respondent's counsel contends these latter are no precedents because (a) they all involved a single injuree, whereas here there was more than one competitor in the area of reduction; (b) they all involved a demonstrated intent to eliminate that single competitor; (c) the price reduction was either below that of the intended eliminee, or below the eliminator's cost; and (d) the discrimination was continued long enough to cause serious injury to or destruction of the intended eliminee. I am unable to agree that the scope of the statute is limited to injury to just one competitor. True, the resultant contraction of competition is clearer in such a situation, but the statute contemplates injury to the line of commerce in which respondent is en-

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gaged, and that is present here. All of A. B.'s major competitors lost substantial business. Furthermore, there were a number of smaller competitors involved in the General Foods case—that case was not dismissed because of that, but solely because the Commission found that instead of losing business, a number of them had gained. Intent to eliminate a competitor, not being required to be shown, is immaterial here. Undercutting, or selling below cost, furnish a clearer picture of injury and predatory intent, but no case holds it to be a *sine qua non* of injury, actual or potential, or tendency to monopoly. Similarly, no case holds complete destruction of a competitor necessary before injury (279) is found—neither death nor mayhem are essential. The facts here show a distinct probability of the one, if not the other, if A. B.'s price raid had continued longer, or indefinitely; and we are here concerned not only with actual injury but with potential injury as well, and there is nothing in this record to show that what A. B. did in the St. Louis market, could not or would not be done by it, in the future, in other markets as well. Respondent's reliance on quotes from the General Food-opinion is misplaced, since the targets of the respondent's discriminations there were found to have ruined business and not to have been injured, that being the sole ground of dismissal. Furthermore, in line with those cases is the economic strength here of the respondent. A. B. has total assets of more than twice those of its three St. Louis brewery competitors, and, selling nation-wide as it does, is able, although there is no proof that it did, to use income or profit from the rest of its business to stabilize losses, if any, incurred in such a price raid. I repeat, there is no showing that it did, but the record shows it could—the potentiality is there. The fact that the St. Louis market

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produced only a small fraction of its total business is immaterial in the face of its over-all size and strength, but the fact that its St. Louis competitors were dependent on the St. Louis market for a substantial segment of their business points up not only the size disparity but the extent of the injury.

27. Taking up now respondent's second contention, it is true that lower prices to consumers is the goal of a free-enterprise system, but it must not be done so as to discriminate and benefit some customers at the expense of others, except under stipulated circumstances, such as meeting the equally low price of a competitor. As construed by the Supreme Court in *F. T. C. v. A. E. Staley Mfg. Co., et al*, 324 U. S. 746, Section 2(b) places emphasis on "individual competitive situations, rather than upon a general system of competition," and further, in *Standard Oil Company v. F. T. C.*, 340 U. S. 231, that "wherever a lawful lower price of a competitor threatens to deprive a seller of a customer, the seller, to retain that customer, may in good faith meet that price." From these, proponent's counsel argue that since A. B.'s price action was admittedly aggressive rather than defensive, its defense must fail. Respondent's counsel rely on the *Balian* case cited above, which seems to reject this interpretation. But the factual setting in that case was markedly different. I believe there is a fair implication in *Staley* and *Standard Oil*, that Section 2(b) was intended not to absolve price (280) discrimination for aggressive purposes but is limited to and available only to retain business. Such is not the case here. Instead of losing sales to competitors by reason of their lower prices, A. B. had been slowly but steadily gaining, prior to the price raid of 1954. Thus,

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from 1945 on it had shown, except for 1947, a consistent gain in its share of the St. Louis market from a low of 5.8% to 12.5% for 1953, and a comparable gain, of course, in absolute numbers of cases sold. Market rank had advanced from a very poor sixth to a close fourth. There is nothing in this record to show, that although it was losing business nationally in the off-premise sales channel, that it was losing business in the St. Louis market or in any imminent danger of doing so. Secondly, these price reductions were ordered by its president for two admitted reasons: 'to get business away from its competitors, and to punish them for refusing to increase prices when A. B. did so in the fall of 1953. Apparently the lesson was well taught and better learned, because those three St. Louis breweries promptly followed A. B. up with price increases in March 1955, and were careful to keep the price difference between them and it at less than the 33 cents whose elimination had cost them so much sales volume. Thirdly, A. B. did not just meet, it beat competition. True, as counsel sarcastically comments, \$2.35 equals \$2.35 and not \$2.30; but numerical prices by themselves can be misleading because they can be superficial. A. B.'s beer at \$2.35 was in the same quantity as its competitors', and selling at the same dollars-and-cents figure, but at \$2.35 it was selling more value than its competitors were, by the ultimate test of any market—the consumer himself. Whether it be called "public acceptance" or "superior public acceptance," the consumer has proved, and A. B. is profiting thereby, that the former will, in most markets, pay more for Budweiser than it will for many other beers—clear proof that such consumer believes that he is getting more in quality, taste, effect or what not, from Budweiser than from others in the same product category for the

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same money. The tremendous sales surge to Budweiser away from G. B., G. W., and Falstaff in the St. Louis market, after June 21, 1954, when the consumer could buy all of them at the same price, is dramatic evidence of this. The statistical picture set out above in Paragraphs 17, 18, and 19 also shows that this switching to Budweiser, in the St. Louis market at least, starts at a premium of about 35c a case of 24 12 oz. bottles. Below that spread consumers evidently think, in substantial numbers, whose substantiality increases as the spread decreases, that they are getting more, cent for cent, from Budweiser than they are from the beers of G. B., G. W., (281) and Falstaff. Counsel cites *Standard Oil Co. v. F. T. C.*, 233 F. 2d 649, as rejecting and "laying to rest" this reasoning. Without discussing whether the language does in fact fully reject, suffice it to say that that case is on appeal and not yet finally decided. Support for such reasoning is found in *E. B. Muller & Co. v. F. T. C.*, 142 F. 2d 511, and in *F. T. C. v. Standard Brands, Inc.*, 189 F. 2d 510, in neither of which was it expressly rejected, and in both of which it was an argued and briefed issue. Nor do I believe that the Court's remarks thereon were "chance." The finding on this point is that Budweiser has wide public acceptance geographically, and superior public acceptance in most markets, not because it does or has sold more than regional or local beers in any given market, but in the sense that in most markets the consumer will pay a higher price for it than for local or regional competitive beers.

28. Respondent's counsel urge that A. B.'s St. Louis price raid was "price experimentation" and "testing the market" for the purpose of finding a solution to serious competitive and distributional problems, and that this is

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evidence of its "good faith." These were: A. B.'s inability to match in every market the intensive advertising done there by local or regional brewers who were able to concentrate an entire budget in a small area, whereas A. B. had to scatter its shots over the nation; the freight disadvantage over local beers which had no freight to be added, and regionals with less than A. B.; decentralization, by the purchase of local breweries; and steady contraction of its principal channel of distribution—on-premise sale, which accounted for 60% of its distribution. Although A. B.'s sales nationally and through all channels were the highest in the nation, its off-premise sales, particularly through grocery stores, had been steadily declining. Whereas about 75% of industry beer sales were off-premise and the remainder on premise, A. B.'s ratio was almost the reverse of the industry. To meet these problems, A. B. conducted various surveys and field tests to determine market conditions, and sent out questionnaires to its distributors and wholesalers, asking their remedial suggestions. Various solutions were considered; smaller size packages of Budweiser to sell at the same prices through off-premise outlets, particularly grocery stores; new beers to sell at, or about, the same prices as competitors' local and regional beers; and expanded advertising and sales promotion. Sometime between the fall of 1953 and early in 1954 A. B.'s management decided on a reduction in container size—10 oz. cans or bottles in place of 12 oz. to sell at or near the price of competitive local and regional 12 oz. size; in other words, (282) to sell less beer for the same price as more beer of others. Implementing this was a long and tedious problem because of the tax, warehousing, and production problems it raised, and because of the many various state regulations, some of which, by law, fix beer

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container sizes, others of which, rest discretion in Alcoholic Beverage Control Boards. The 25c price reduction of January 4, 1954, in the St. Louis market did produce increased off premise as well as on premise sales; but the results were considered by A. B. as not definitive, and the June reduction was ordered. Counsel claims the spectacular results thereof made it clear to management that the solution lay in marketing the 10 oz. container wherever possible, as against a 12-oz. competitive container, but also to bring out a new and cheaper beer. This latter was determined upon in the fall of 1954 and placed on the market in March of 1955, and proved a flop. Then A. B. brought out a still different cheaper beer under different merchandising techniques in August 1955, but the record does not show its degree of success.

29. On the above basis, counsel contend that A. B.'s price reductions were to obtain market information with which to formulate a long range marketing policy, and to "buy time" by "competing on a price basis until such new long-range policies could be placed in effect," and conclusively establish A. B.'s good faith.

30. In my opinion, however, the sales considerations which respondent alleges as the reasons for this "experiment," taken at full value, do not outweigh the contrary factors discussed in Paragraph 28 above. I cannot, however, take them at full value. The "experiment" clearly demonstrated that lower prices on Budweiser was the answer to volume, both on-premise and off-premise; but obviously A. B. did not want that answer, and certainly did not follow it. It wanted an answer which would enable it to keep Budweiser up in price, above its competitors, but

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still obtain more volume by other means—whenever “high ring brand” beer or less quantity for the same price, because that is what A. B. undertook and since has done. And it is inferable from the record that these two expedients were pretty well determined upon by or before June of 1954. It is questionable whether the June reduction was in fact a seeking of an answer, as alleged. Furthermore, why an eight months’ experiment when three months’ trial produced, so far as the record goes, equally as good statistical sales results as the eight months?

(283) 31. The conclusory finding is that respondent’s 1954 price reductions in the St. Louis market were not made in good faith to meet the equally low prices of competitors.

The order proposed by counsel in support of the complaint, after the usual injunction against discrimination, finishes with “and where such lower prices reduce in any consequential amount the theretofore existing differential in price between respondent’s product and the product of any of such other sellers, unless respondent reduces all prices in all areas by the same percentage.” Entry of this order is refused because:

1. The key word “consequential” is vague and indefinite and, on the record, varies so from market to market as to have no meaning, hence would be impossible of compliance or enforcement.
2. The words “theretofore existing differential” are likewise incapable, in many instances, of definite ascertainment, and therefore incapable of compliance or enforcement. This obviously means the higher price which respondent obtains in most markets for its beer over other beers, but there are beers which

Initial Decision

command a higher price than Budweiser in some markets. That spread, too, is a "therefore existing differential."

2. The fact that different quantities have different differentials, whether "therefore existing" or not, makes the order as submitted unworkable.

CONCLUSIONS OF LAW

1. To reduce prices in one area, while maintaining them in all other areas, is discrimination in price within the prohibition of Section 2(a) of the Clayton Act, provided the required effects follow therefrom, regardless of whether there is a uniform price or varying prices in the unchanged areas.

2. Accelerating an existing downward sales trend, or arresting and reversing an upward sales trend of competitors, is evidence of the required statutory effect.

(284) 3. Partial recovery from competitive injury suffered during a period of price discrimination, when the latter is abandoned or partially abandoned, does not excuse its employment.

4. The good faith requirement of Section 2(b) of the Clayton Act is not met where a price discrimination, with the required resultant competitive effect, is for a aggressive rather than defensive purposes.

5. The law does not require that a competitor be put out of business completely or permanently, or irretrievably crippled, by a price discrimination before a finding of the prescribed competitive effect can be made.

*Initial Decision***ORDER**

IT IS ORDERED that the respondent, Anheuser-Busch, Inc., a corporation, and its officers, representatives, agents and employees, directly or through any corporate or other device, in the sale of beer of like grade and quality, do forthwith cease and desist from discriminating, directly or indirectly, in price, between different purchasers, where either, or any, of the purchases involved in such discrimination are in commerce, as "commerce" is defined in the Clayton Act, by a price reduction in any market where respondent is in competition with any other seller, unless it likewise reduces its prices for the same quantity of beer everywhere by the same percentage.

s/ Frank Hier
Frank Hier
Hearing Examiner

October 23, 1956

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Final Order**UNITED STATES OF AMERICA****BEFORE FEDERAL TRADE COMMISSION****Commissioners:**

John W. Gwynne, Chairman

Robert T. Secrest

Sigurd Anderson

William C. Kern

Edward T. Tait

This matter having been heard by the Commission upon respondent's appeal from the hearing examiner's initial decision, and upon briefs and oral argument in support thereof and in opposition thereto; and

The Commission having determined, for the reasons appearing in the accompanying opinion, that respondent's appeal should be denied and that the order contained in the initial decision should be modified:

It Is ORDERED that the order contained in the initial decision be, and it hereby is, modified to read as follows:

It Is ORDERED that the respondent, Anheuser-Busch, Inc., a corporation, and its officers, representatives, agents and employees, directly or through any corporate or other device, in the sale of beer of like grade and quality, do forthwith cease and desist from discriminating, directly or indirectly, in price between different purchasers engaged in interstate commerce, where either, or any, of the purchasers involved in such discrimination are in commerce, as "commerce" is defined (418) in the Clayton

Final Order

Act, by a price reduction in any market where respondent is in competition with any other seller, unless it proportionally reduces its prices everywhere for the same quantity of beer.

IT IS FURTHER ORDERED that the findings, conclusions, and order, as modified, contained in the initial decision, be, and they hereby are, adopted as those of the Commission.

IT IS FURTHER ORDERED that the respondent, Anheuser-Busch, Inc., shall, within sixty (60) days after service upon it of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with the order contained in the initial decision, as modified.

By the Commission, Commissioners Anderson and Kern not participating.

[SEAL]

s/ Robert M. Parrish
Robert M. Parrish,
Secretary.

Issued: September 10, 1957.

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Opinion of the Commission

UNITED STATES OF AMERICA

BEFORE FEDERAL TRADE COMMISSION

Docket No. 6331

Commissioners:

John W. Gwynne, Chairman

Robert T. Seerest

Sigurd Anderson

William C. Kern

Edward T. Tait

By Tait, Commissioner:

The respondent in this proceeding is charged by the complaint with price discrimination in violation of Section 2(a) of the Clayton Act, as amended by the Robinson-Patman Act (15 U. S. C. 13).¹ Specifically, it is alleged that respondent in connection with the sale of beer made two successive price reductions in the area of St. Louis

¹ Section 2(a) provides in part as follows: "That it shall be unlawful for any person engaged in commerce, in the course of such commerce, either directly or indirectly, to discriminate in price between different purchasers of commodities of like grade and quality, where such commodities are sold for use, consumption, or otherwise within the United States or any Territory thereof, or any place where such commodities are sold for use, consumption, or otherwise within the United States or any Territory thereof, or any place where such commodities are sold for use, consumption, or otherwise within the United States, and where the effect of such discrimination may be substantially to lessen competition or tend to create a monopoly in any line of commerce, or to injure, destroy, or prevent competition with any person who is engaged in commerce with foreign countries." (15 U. S. C. 13(a)).

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County, Missouri, from its previously established regular premium price for that area, and that it made no similar price reductions in any other area. It is charged that by so doing respondent discriminated in price between different purchasers (420) of its beer of like grade and quality with the effect, among other things, of diverting substantial business from respondent's competitors to the respondent.

The hearing examiner, in an initial decision filed October 25, 1956, found that the allegations of the complaint were sustained by the record and ordered respondent to cease and desist such practices. Respondent has appealed from the initial decision.

Respondent, Anheuser-Busch, Inc., a corporation organized, existing, and doing business under and by virtue of the laws of the State of Missouri, with its principal place of business located in St. Louis, Missouri, is primarily engaged in the manufacture, distribution and sale of alcoholic beverage beer under the brand names Budweiser and Michelob. Respondent distributes and sells beer nationally. It has plants located in St. Louis, Missouri, Newark, New Jersey, and Los Angeles, California, and is one of the nation's leading brewers.²

² Anheuser-Busch's national rank 1952 to 1955 is shown by the following table:

	<i>Total Paid Tax</i> <i>U. S. Imports U. S.</i>	<i>Anheuser-</i> <i>Busch Gross</i>	<i>Percentage</i>	<i>National</i>
		<i>Sales</i>	<i>of Total</i>	<i>Rank</i>
1952	84,836,480 bbls.	6,034,443	7.11	2
1953	86,045,116 bbls.	6,711,222	7.8	1
1954	83,305,302 bbls.	5,828,760	7.0	1
1955	84,974,175 bbls.	5,616,793	6.61	2

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In some areas respondent sells its beer to wholesaler-distributors who resell it to licensed dealers and dispensers in their trade areas; and in other areas, including that around St. Louis, respondent sells directly to liquor stores, chain grocery stores, bars, and other outlets generally termed "retailers." Approximately 25% of respondent's beer sales are made through its branch operations, while sales to wholesaler-distributors account for the remaining 75%.

(421) In the beer industry there is a wide dispersal of manufacturing facilities due mainly to high shipping costs relative to unit value. Thus, there is found throughout the country many beers of local or regional geographic distribution. A few brewers sell beer in every state or nearly every state. These are the so-called "national" beer shipping companies, and include Blatz, Miller's, Pabst, and Schlitz of Milwaukee, Wisconsin, as well as Anheuser-Busch, the respondent.

Throughout the country, respondent's product, Budweiser, is generally sold at some higher price than beers of local or regional distribution. While there is no uniform or constant differential, in the great majority of markets Budweiser is priced over its regional or local competition. This is established in the record by various surveys, the results of which are corroborated by the testimony of both retail and competitor witnesses. Moreover, respondent itself has advertised Budweiser as a premium priced beer. As an example, it was advertised as "the same Budweiser that still sells at premium prices around the world."

In the St. Louis area, respondent's principal competitors are three regional brewers: Falstaff Brewing Corpor-

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ration, Griesedieck Western Brewing Company, and Griesedieck Brothers Brewery Company (hereinafter referred to as Falstaff, G.W. and G.B., respectively). Prior to 1954, these competitors sold beer in the St. Louis area at prices substantially less than the price of Budweiser. The prices of the regional competing beers were in each instance \$2.35 per case.³ Respondent's price was \$2.93 per case, a differential of \$.58. Respondent first reduced its price on January 4, 1954, to \$2.68 per case, leaving a new differential of \$.33. Thereafter, on June 21, 1954, respondent again reduced its price, this time to \$2.35 per case, at which price it was exactly matching the prices of its regional competitors. The following table indicates the complete price changes made in St. Louis by the respondent in this period.

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<i>Net to Retailer</i>			
<i>Bottles</i>	<i>12-31-53</i>	<i>1-4-54</i>	<i>6-21-54</i>
24/12 oz. Ret. Reg.	2.93	2.68	2.35
24/12 oz. N.R. Reg.	3.29	3.16	2.81
24/12 oz. N.R. 4/6	3.29	3.16	2.83
12/32 oz. Ret. Reg.	3.41	3.41	2.96
12/32 oz. N.R. Reg.	3.80	3.65	3.44
36/7 oz. R. A.	2.90	2.75	2.60
<i>Cans</i>			
12/12 oz.	1.67	1.60	1.54
48 12 oz. S. G.	6.68	6.40	6.18
24 12 oz. Reg.	3.34	3.20	2.99
<i>Draught</i>			
Budweiser	13.98	12.75	12.45
" "	13.98	13.98	13.98

³ Case, as used herein unless otherwise indicated, refers to the standard case of 24—12 ounce regular returnable bottles.

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On January 3, 1954, respondent was selling standard 24 12 ounce cases of regular returnable bottles from its branches net to the retailer at the following prices:

St. Louis, Mo.	\$2.93	Washington, D. C.	\$3.65
Chicago, Ill.	3.44	Detroit, Mich.	3.55
Cincinnati, Ohio	3.75	Boston, Mass.	3.69
Houston, Texas	3.70	Kansas City, Mo.	3.15
Bronx, New York	3.68	St. Paul, Minn.	3.53
Kearney, Nebr.	3.68	Sioux Falls, S. Dak.	3.50
St. Joseph, Mo.	3.17	Denver, Colo.	—
Buffalo, N. Y.	3.60	San Francisco, Calif.	3.79
Baltimore, Md.	3.62	Los Angeles, Calif.	3.80

Respondent, however, made no price reductions anywhere else in the United States similar to those made in the St. Louis area. As a result of maintaining higher prices to all purchasers outside of the St. Louis area and charging the lower prices, as reduced in 1954, to only those customers in the St. Louis area, respondent discriminated in price as between purchasers differently located.

(423) The price reductions of 1954 remained in effect until March, 1955, at which time respondent increased its price 45¢ per case. Its new higher price was then \$2.80 per case. Falstaff, G.B. and G.W. almost immediately increased prices to \$2.50 per case, or 15¢ over their prior prices. This resulted in a new differential of 30¢ per case.

One of the principal issues raised on this appeal is whether or not respondent's price reductions in 1954, resulting in discriminations in price between purchasers, were such as to have an injurious effect on competition within the meaning of Section 2(a). The hearing examiner

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found that respondent's price discriminations had the effect of diverting substantial business to Anheuser-Busch from its competitors in the St. Louis market; the effect of substantially lessening competition in the line of commerce in which Anheuser-Busch and its local competitors are engaged; and the further effect of tending to create a monopoly and having the potentialities to continue to do so.

Prior to the price reduction by respondent in January, 1954, G. W. was the leading seller in the St. Louis market followed by Falstaff, G. B. and Anheuser-Busch. Immediately thereafter, respondent rose to third in volume of sales and G. B. dropped to fourth. Following the June, 1954, price reduction, Anheuser-Busch became the leading seller in the area with Falstaff second, G. W. third and G. B. fourth. Respondent held its first place position in the market throughout the eight months of the full price reduction, from July, 1954, through February, 1955. During this period, the total market sales increased only about 9.2% as against the same period for 1953-54, while respondent, comparing its sales for the same periods, enjoyed an increase of 201.5%, a tripling of sales. On the other hand, Falstaff, G. B. and G. W. during the period of the price reductions lost in their volumes of sale as well as their respective shares of the total market in the St. Louis area. The losses of G. B. and G. W. were particularly large. Comparing the eight months of the full reduction with the same prior period, G. B.'s sales were cut by about 41% and G. W.'s about one-third. In the following table the (424) gains made by the respondent are compared with the losses incurred by its major competition in the St. Louis market:

*Opinion of the Commission*SALES IN STATISTICAL CASES⁴*July 1953 - Feb. 1954 July 1954 - Feb. 1955*

Anheuser- Busch	1,121,065	3,380,648
Falstaff	2,601,665	2,560,144
Griesedieck Brothers	1,152,369	678,143
Griesedieck Western	3,074,537	2,065,335
All Others	448,134	490,908
Total Market	8,397,770	9,174,278

The relative positions of the various competitors in the St. Louis market around the time of respondent's price reductions in 1954, as expressed in shares of the total market, may be shown as follows:

	<i>Dec. 31 1953</i>	<i>June 30 1954</i>	<i>March 1 1955</i>	<i>July 31 1955</i>
A. B.	12.5	16.55	39.3	21.03
G. B.	14.4	12.58	4.8	7.36
Falstaff	29.4	32.05	29.1	36.62
G. W.	38.9	33.	23.1	27.78
All Others	4.8	5.82	3.94	7.21

⁴A statistical case means the equivalent of the standard 24 1/2 oz. case.

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G. B. and G. W. had been having progressively less sales volume in the St. Louis market for several years prior to the price reductions by respondent, and thus it is reasonable to expect that their sales under ordinary circumstances would have continued downward at about the same rates. The trends (425) of their losses, however, do not indicate that their sales reverses in the 1954-55 period would have been anywhere nearly as severe if respondent had not so sharply reduced its prices. Falstaff, on the other hand, had been showing progressive gains in sales prior to the period of the price reductions, and according to this trend but for the reductions, Falstaff would not have lost sales, as it did, but would have shown a substantial increase.

Taking into account all of the factors which may have affected the sales of the various competitors in the St. Louis market, it is evident that only respondent's price reductions could have had such a general adverse effect on the market. No other circumstance will account for the fact that, while respondent more than tripled its sales, most of its competition suffered such serious declines. This almost speaks for itself. Respondent's gains could only have been made at the expense of competition since the total sales in the St. Louis market did not increase by any such substantial amount as the sales of respondent and the small combined increase in sales by all of the other competitors could not begin to account for the losses experienced by Falstaff, G. B. and G. W. Respondent's price discriminations manifestly resulted in a substantial diversion of sales from competitors to itself. The gravity of the effect of the sales losses on these competitors is readily apparent from the showing that the St. Louis market accounted for 14

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of Falstaff's sales, 24% of G. B.'s and 25% of G. W.'s. Moreover, in connection with the effect on competition, respondent's relative size in the beer industry cannot be disregarded. In 1953, the total sales of Budweiser of 6,711,222 barrels was in excess of even the combined total sales of its three leading St. Louis competitors. Their total sales in 1953 were as follows: Falstaff 2,911,393 barrels, G. W. 1,483,631 barrels, G. B. 778,142 barrels. Clearly respondent's discriminations in price had the effect of substantially lessening competition in the line of commerce in which Anheuser-Busch, Falstaff, G. B. and G. W. are engaged. We believe that the hearing examiner's findings in respect to competitive injury are amply supported by the record and free of error.

Respondent's next contention in this appeal is that it is entitled to a finding that its price reductions were made in good faith to meet the equally low price of a competitor within the meaning of Section 2(b) of the (426) Clayton Act, as amended.⁵ On the basis of the record in this case, we cannot agree.

Section 2(b) provides as follows:

"(b) Upon proof being made, at any hearing on a complaint under this section, that there has been discrimination in price or quantity or facilities furnished, the burden of rebutting the prima facie case thus made by showing justification shall be upon the person charged with a violation of this section, and unless justification shall be affirmatively shown, the Commission is authorized to issue an order requiring the discrimination. *It is held here, too.* That nothing so contained shall prevent a seller rebutting the prima facie case made by showing that his lower price or the furnishing of service or facilities to any purchaser or purchasers was made in good faith to meet an equally low price of a competitor or the service or facilities furnished by a competitor."

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The justification provided by Section 2(b) for discrimination in price contrary to the provisions of Section 2(a) is essentially a right of self-defense against competitive price attacks. *Standard Oil Co. v. F. T. C.*, 340 U. S. 231.

In this instance, respondent's purpose could not have been to protect its sales volume in the St. Louis market against an invasion by competitors. Its sales and share of the total market had been steadily increasing. None of the competitors constituted any threat at that time to respondent's relative position in the St. Louis market. In fact, the sales of two of its major competitors had been on the downgrade for some time. Respondent argues that, while not losing sales in the St. Louis area, it had been having decreases in sales volume in other markets served by its St. Louis plant. This, however, would not justify the lowering of prices in the one market in which respondent had experienced no losses. The emphasis of Section 2(b) is on individual competitive situations rather than upon a general system of competition. *F. T. C. v. A. E. Staley Mfg. Co.*, 324 U. S. 746. If respondent was faced with an individual competitive situation which it had to meet, it clearly was not in the St. Louis area. However more advantageous it may have been for respondent to lower its prices there, by so doing it has no defense under 2(b).

(427) Prior to the price reductions of 1954, Budweiser was sold at a considerably higher price in St. Louis than most of its competition and not only retained but steadily improved its sales volume in that market. After the price increases of March 1955, when there was again a differential in price between Budweiser and the regional beers in St. Louis, respondent's product continued to sell at a

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volume greater than that in the years prior to the price reductions. It is evident that Budweiser could and did successfully command a premium price in the St. Louis market as it has in most of the other markets in the nation. The test in such a case is not necessarily a difference in quality but the fact that the public is willing to buy the product at a higher price in a normal market. Clearly, therefore, respondent's reduction from the premium price to match the prices of the regional beers on the market was not a meeting of competition. The effect was to undercut competition. The huge gains which respondent made at the lower prices testifies to that fact. Under the circumstances, respondent cannot justly claim that it was meeting competition.

Considering all the factors, we conclude that the hearing examiner was warranted in finding that respondent's 1954 price reductions in the St. Louis market were not made in good faith to meet the equally low prices of competitors.

Finally, on this appeal, respondent contests the appropriateness of the order contained in the initial decision. It contends, for one thing, that since all the findings as to injury relate to the St. Louis market, the only lawful order which can be entered is one confined to that market. There is no merit in this. As to territorial extent, a respondent having been found guilty of a violation of the Act may properly be required to cease and desist such practices in all areas in which it is doing business. *The Maryland Bank Company v. F. T. C.*, 243 F. 2d 716.

Respondent also argues that the order requires a uniform percentage reduction in all markets. Such an order,

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it is asserted, is divorced from the realities of beer pricing. The point is made that since differentials vary from market to market, a price reduction might actually result under the order in bringing the price of Budweiser in a great many markets below (428) that of the regional beer. This argument assumes that every price reduction necessitates reductions everywhere. In fact, the order does not preclude respondent from differentiating in price in a new competitive situation involving different circumstances where it can justify the discrimination in accordance with the statutory provisos. Nor is the respondent precluded under the order, if the circumstances are not substantially similar, from lowering its price in good faith to meet an equally low price of a competitor. *F. T. C. v. Rubenoid Company*, 343 U. S. 470.

Respondent's also comments in its brief that this is an extraordinary Robinson-Patman Act order in that, unlike the usual order requiring uniform prices, it allegedly requires Anheuser-Busch to charge different prices in different markets in perpetuity. As indicated above, the order does not necessarily require differences in price hereafter since the statutory provisos are implicit in the order. Moreover, since the order is directed to discriminations in price, there is nothing therein to prevent respondent from charging all of its purchasers the same or uniform price if it so chooses. On the other hand, if the order was worded so as to require respondent to maintain uniform prices, this, if anything, would be contrary to market realities. Respondent's prices vary in the different markets in which it sells, resulting in differences which, with the exception of the price discriminations charged in the complaint, are not in issue in this proceeding. This order, while in effect

Opinion of the Commission

permitting the continuation of these price differences, serves to prevent disproportionate price reductions or discriminations in price beyond the established differences among markets, such as the price discriminations found to be unlawful. The form of the order is entirely appropriate in the circumstances. The order should be modified, however, so that it will be clear its application extends only to prices charged to purchasers engaged in the same line of commerce. Also we have inserted the term "proportionally" in lieu of "percentage" to avoid possible rigidity of interpretation.

Respondent's appeal is denied. It is directed that the order contained in the initial decision be modified in accordance with the views herein expressed.

Commissioners Anderson and Kern did not participate in the decision herein.

September 19, 1957.

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Order Correcting Typographical Error

UNITED STATES OF AMERICA

BEFORE FEDERAL TRADE COMMISSION

Docket No. 6331

Commissioners:

John W. Gwynne, Chairman

Robert T. Seerest

Sigurd Anderson

William C. Kern

Edward T. Tait



In the Matter of

ANHEUSER-BUSCH, INC., a corporation.



Whereas, the Commission issued its Final Order in this proceeding September 10, 1957; and

Whereas, it appears that the Final Order through some inadvertence contains the word "purchasers" rather than the word "purchases" immediately following the words "in the same line of commerce, where either, or any, of the"; and

It having been determined that a correction of this typographical error should be made:

Order Correcting Typographical Error

It Is ORDERED that the Final Order be, and it hereby is, corrected by the substitution of the word "purchases" for the word "purchasers" immediately following the words "in the same line of commerce, where either, or any, of the" contained therein.

By the Commission, Commissioners Anderson and Kern not participating.

[SEAL]

Robert M. Parrish,
Secretary.

Issued: October 4, 1957

**Petition To Review and Set Aside Order
of the Federal Trade Commission**

UNITED STATES COURT OF APPEALS

FOR THE SEVENTH CIRCUIT

*To the Honorable Judges of the Court of Appeals
for the Seventh Circuit:*

Petitioner Anheuser-Busch, Inc., a corporation, pursuant to Section 11 of the Clayton Act (15 U. S. C. 21), respectfully requests this Court to review and set aside an order and decision of the Federal Trade Commission, respondent herein, entered in the Matter of Anheuser-Busch, Inc., a corporation, Federal Trade Commission Docket No. 6331, and respectfully shows:

I. Jurisdiction and Venue

Petitioner at all times mentioned herein was and is a corporation duly organized and existing under and by virtue of the laws of the State of Missouri, with its principal place of business in the City of St. Louis. This proceeding is brought by petitioner under Section 11 of the Clayton Act (15 U. S. C. 21) to review and set aside the aforesaid order of the Federal Trade Commission. Venue is based upon the provision of that section permitting any person required by an order of the Federal Trade Commission to cease and desist, to obtain judicial review by filing a written petition with the Court of Appeals within the Circuit wherein such person carries on business or wherein the violation is claimed to have been committed. Petitioner carries on

*Petition To Review and Set Aside Order of
Federal Trade Commission*

business in Illinois, Indiana and Wisconsin, and has a branch in the City of Chicago, Illinois, from which it sells directly to retailers. The prices at which petitioner sells its beer from its various branches directly to retailers form the basis of the charge of price discrimination in the complaint.

II. A Concise History of the Proceedings

On or about the 19th day of April, 1955, the Federal Trade Commission issued its complaint against petitioner alleging, with certain jurisdictional averments, that the petitioner had violated Section 2(a) of the Clayton Act, as amended by the Robinson-Patman Act (15 U. S. C. 13), in reducing the price of its beer for a limited period in one county of the United States "to the point where it exactly matched the established price charged for beer by its local competitors", while maintaining its various prices elsewhere in the nation. While it alleged that your petitioner's prices varied among markets, it is not claimed that such differences violated the statute. The only price differences in issue were those resulting from the temporary price reduction in the single county of St. Louis County (decision of the Federal Trade Commission, page 7).

Thereafter, on or about June 17, 1955, petitioner filed its answer to said complaint in which it denied price discrimination within the meaning of the statute, and further denied the required statutory effects which are necessary to a finding of violation. Petitioner affirmatively pleaded *inter alia* the statutory defenses that the difference in prices charged by it was and is necessitated by, and made

*Petition To Review and Set Aside Order of
Federal Trade Commission*

in good faith to meet, the equally low prices of a competitor or competitors, and that said difference in prices charged by it was and is in response to changing conditions affecting the market for and the marketability of its products.

Hearings were thereafter held in St. Louis, Missouri and Washington, D. C., during September and October, 1955 before Examiner Frank Hier. At the conclusion of the complainant's case, your petitioner moved to dismiss the complaint. The Hearing Examiner at that time stated to the proponent of the complaint:

"Mr. Mayer * * * I say to you now, you have got a mighty slim case here as it now stands. Now, what comes after this, I don't know.

"The reason I am going to deny the motion [to dismiss the complaint]—the reasons are perhaps three. First of all, I am satisfied, Mr. Barton, Mr. Baker and the rest of you gentlemen, the Commission, issuing this complaint when it did, on the heels of the General Foods case, intended to have a full dress inquiry. And I am satisfied, therefore, that if I dismiss it, and he took it upstairs, which he naturally would, back it would come seven or eight months from now, and you would have to go through with it anyhow." (Transcript p. 344)

As a result of this ruling, which was apparently based on matters completely alien to the merits of the Commission's case previously presented, your petitioner thereafter put in its defense. It set forth for the Commission a picture of the intricate distribution machinery of the

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beer industry, the revolutionary marketing changes and problems which faced and still face your petitioner resulting in reduced sales throughout the country and the efforts to meet this competitive problem.

On or about October 25, 1956, the Hearing Examiner filed with the Federal Trade Commission his report upon the facts and his conclusions of law. He found that there are many "distributive characteristics [which] affect price and competition in any given market" and that "all of them are beyond the control of the brewers" (Hearing Examiner's initial decision, par. 8). He did not question that the prices charged by your petitioner to all competing purchasers in the one area in issue were identical. He found that of the four brewers whose beer constituted almost all the beer sold in the St. Louis market, your petitioner had the smallest sales in that market prior to its price reduction. The Hearing Examiner did not question that petitioner's principal competitor in St. Louis and elsewhere throughout the midwestern states, Falstaff Brewing Corporation, was and is the fourth largest brewer in the nation, that its sales had been growing steadily over a period of years, and that it controlled 29.4% of the St. Louis market immediately prior to your petitioner's price reduction in St. Louis in January, 1954. The Hearing Examiner found that during this initial six month price reduction, your petitioner's prices were still higher than Falstaff's and that this competitor's growth in sales and share of the market continued unabated and grew to 32% of all beer sales in the market. He found that your petitioner reduced its prices again in St. Louis from June, 1954 to February, 1955 to a point where it exactly equalled that of all its competi-

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tors, including Falstaff. He found that Falstaff's share of the market temporarily slipped off in one month to a point where it still had more than 25% of the market and that thereafter its share of the market continued to grow. By July 31, 1955 Falstaff had 36.6% of the market. In the fourth quarter of 1955, it controlled 42% of the market. It was found that any sales losses suffered by other competitors were caused in large part by factors within the control of those competitors, and were occurring in areas where there was no alleged price reduction by petitioner.

It is uncontradicted that prior to its two price reductions, your petitioner had been losing sales on a nationwide basis to Falstaff. It is uncontradicted that during the period of these price reductions, your petitioner was continuing experiments in new types of packaging, changed methods of merchandising and distribution, as well as the production of new brands in order to find a solution to its sales losses throughout the nation. It is uncontradicted that the only place in which the price reduction could be practicably made were in the one county where they were made—St. Louis. It is uncontradicted that the results of these tests were to place new brands and new packages into production and distribution as soon as they were developed.

Nevertheless, the Hearing Examiner entered an order directing the petitioner to cease and desist from discriminating, directly or indirectly, in price, between different purchasers of petitioner's beer of like grade and quality where either, or any, of the purchasers involved in such discrimination are in commerce, "by a price reduction in any market where [petitioner] is in competition with any

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other seller unless it likewise reduces its prices for the same quantity of beer everywhere by the same percentage".

Petitioner timely appealed from the Hearing Examiner's initial decision and order, and oral argument was held before the Federal Trade Commission. On or about September 10, 1957, said Commission, with two of the five Commissioners not participating, determined that petitioner's appeal to it should be denied. The Commission's opinion recognized (page 7) that "uniform prices * * * would be contrary to market realities". It adopted the findings of the Hearing Examiner, and various existing prices are permitted to stand by the order, including those now in effect in St. Louis County, which are lower than elsewhere in the nation. The order, entered by the Federal Trade Commission, as amended by an order correcting "certain typographical errors", provided:

"It is ORDERED that the respondent, Anheuser-Busch, Inc., a corporation, and its officers, representatives, agents and employees, directly or through any corporate or other device, in the sale of beer of like grade and quality, do forthwith cease and desist from discriminating, directly or indirectly, in price, between different purchasers engaged in the same line of commerce, where either, or any, of the purchases involved in such discrimination are in commerce, as 'commerce' is defined in the Clayton Act, by a price reduction in any market where respondent is in competition with any other seller, unless it proportionally reduces its prices everywhere for the same quantity of beer.

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"IT IS FURTHER ORDERED that the findings, conclusions and order, as modified, contained in the initial decision be, and they hereby are, adopted as those of the Commission."

Said order further provides that the petitioner shall, within 60 days after service of said order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with said order. Said original order of the Federal Trade Commission and order correcting typographical errors were served upon petitioner on or about September 18, 1957, and October 4, 1957, respectively. The time provided by the order for filing said report was extended by agreement between the Commission and petitioner, and this petition to review and set aside said order is filed within such period.

III. Grounds for Relief

The bases of the decisions and orders sought to be reviewed appear to be:

A. That there is injury to the competition within the meaning of the statute if competitors temporarily lose less than 7% of their annual sales for a limited period of time and if part of this loss may possibly be attributed to petitioner's price reductions. It is submitted no other affirmative finding of the Hearing Examiner or of the Commission supports a finding of injury to competition within the meaning of this statute. There was a complete and utter lack of evidence that petitioner sold below cost—or even below competitors' prices—and the Hearing Exam-

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iner and Commission so found. The underlying theory of the order sought to be reviewed must be that in a highly competitive industry where there are four active sellers in one market, temporary loss of sales in that market by some of them to the seller with the smallest sales in that market constitutes injury to competition. The underlying theory must be that such injury results as a matter of law despite the fact that the leading seller in that market controlled 29% of the particular market before your respondent's price reductions, and controls 42% of the market after your petitioner's price reductions. Additionally the curious rationale behind the decisions and orders appears to be that but for your petitioner's price reductions, such competitor's gains would have been larger and that injury to competition may be inferred therefrom.

B. That your petitioner's price reductions were not made in good faith to meet the equally low price of a competitor or competitors, although the Commission had found, as the complaint alleged, that petitioner's reduced prices "exactly matched" those of its competitors. The Commission asserted that the meeting competition defense of Section 2(b) is "essentially a right of self-defense" and then theorized that "none of the competitors constituted any real threat at that time to respondent's [petitioner's] relative position in the St. Louis market" (Commission's decision, p. 6) despite the fact that (1) your petitioner ranked fourth among the four principal brewers in said market prior to its price reductions, (2) your petitioner was experiencing serious sales reverses in a wide area outside St. Louis to Falstaff, and (3) that the leading com-

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petitor in St. Louis, Falstaff, had grown to be fourth largest brewer in the nation and was still growing although its national sales area includes only one-third of the national population.

The Hearing Examiner and the Commission theorized that your petitioner's prices actually "undercut" competitors' even though such reduced prices were higher than and equalled those of its competitors. They theorized that your petitioner's price reductions did not "meet" but "undercut" competitors because for a period of time prior to said price reductions, your petitioner's prices were higher than those of its competitors, i.e., that it sold at a "differential" or "premium". Implicit in this theory of the Commission is the assumption that if a manufacturer once decides to try to sell some beer at a certain price rather than to try to sell more beer at a lower price, it must forever maintain its original position and has no freedom to alter it despite a change in circumstances in individual markets. The Commission so assumed although it expressly recognized that every beer market is different and that the statute permits different prices in different markets.

The further assumption of the Commission's theory is that petitioner predetermines or fixes premiums when in fact "differentials" or "premiums", if any, are determined by the prices not only of petitioner but also of its competitors. Without such an assumption that petitioner fixes premiums there is no basis for treating "premium" prices differently from other prices. It is not alleged that, and the record is completely devoid of anything to indicate that, petitioner set or sets its competitor's prices. Indeed

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the record and explicit findings show that there are many "distributive characteristics [which] affect price and competition in any given market" and that "all of them are beyond the control of the brewer". It is not alleged that, and the record is completely devoid of anything to indicate that, petitioner set or sets "premiums". Indeed, the record amply demonstrates, and it has been found, that the so-called "premium" varies substantially in amount from time to time and from place to place, and in fact that there are frequently several "premiums" in any one market—all because of the differing prices of its competitors.

In its ruling, the Commission also theorized that in an attempt to stem its serious sales losses a manufacturer may not temporarily lower its prices while experimenting with new packages, products and merchandising in the only place where it was practicable to do so "however more advantageous it may have been". It concluded, for this unrealistic reason, too, that petitioner's prices—higher than, or equal to its competitors' at all times—were not made in good faith to meet the equally low price of a competitor or competitors.

C. That an order of the Federal Trade Commission may exceed the scope of the facts shown despite the injury to the public and to petitioner that may result therefrom. The order and decision recognize that the statute does not require uniform prices. However, under the Commission's order, any price reduction in one market requires a proportionate price reduction in all other markets. Under the facts as found by the Hearing Examiner and by the Commission, price differentials vary from market to market

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and from time to time. Consequently, reductions in one market if made proportionately in other markets may, and on the Commission's findings actually will, bring your petitioner's prices considerably below competitors' prices in other markets. If the price reduction here litigated injured competition within the meaning of the statute when your petitioner's prices were exactly the same as its competitors, then almost necessarily prices below those of its competitors would injure competition within the meaning of the statute. The Commission's order, therefore, not only exceeds the permissible scope of an order but actually runs counter to the purposes and intent of the statute.

Moreover, petitioner is henceforth barred from meeting the frequent and variable price changes in individual markets which the Commission found to be characteristic of the beer industry. A price change in one market must be matched by a proportionate change in each of the approximately 1,000 other markets despite the fact that petitioner's competitors in these other markets may be changing their prices by varying amounts or not at all, and that there are many "distributive characteristics [which] affect price and competition in any given market".

Petitioner, deeming itself aggrieved and believing that the aforesaid cease and desist order of the Federal Trade Commission is unwarranted, unlawful and rests upon a decision containing numerous palpable errors which are not sustained in fact or law, files this petition for review, and submits that respondent Federal Trade Commission erred in issuing its said order and decision against petitioner, in that

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A. The findings and conclusions accepted by and made by the Federal Trade Commission are contrary to the facts.

B. Said findings and conclusions are contrary to law.

C. There is insufficient evidence from which the Commission can lawfully conclude that anything petitioner has done is or has been to the prejudice of the public, or had the effect of "injuring" competition within the meaning of the statute or constitutes price discrimination in violation of Section 2(a) of the Clayton Act, as amended by the Robinson Patman Act.

D. The evidence shows that the prices of petitioner in issue were offered in good faith to meet the equally low price of its competitor or competitors, which by terms of the statute and decisions of the Supreme Court of the United States, is an absolute defense.

E. There is insufficient evidence from which the Commission can lawfully conclude that petitioner's prices in issue, which at all times were higher than or equal to those of its competitors, were not offered in good faith to meet the equally low prices of a competitor or competitors.

F. The said order and decision of the Commission is unwarranted in scope under the circumstances presented in the record herein and exceeds the jurisdiction of the Commission.

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IV. Relief Prayed

WHEREFORE, petitioner respectfully prays that this Court review the aforesaid proceedings and the order to cease and desist entered thereon, and set aside said findings, conclusions and order, as well as direct the Commission to dismiss its complaint against petitioner and to award such further or alternative relief as may seem just and proper to the Court.

Dated: March 17, 1958.

ANHEUSER-BUSCH, INC., *Petitioner*

EDGAR BARTON

EDWARD WOLFE

of WHITE & CASE

14 Wall Street

New York 5, New York

Attorneys for Petitioner

DWIGHT INGAMILLS

Of Counsel

Transcript of Hearings

BEFORE THE
FEDERAL TRADE COMMISSION

In the Matter
of
ANHEUSER-BUSCH, Inc.,
a corporation

Docket No. 6331

Courtroom No. 1, Federal Building,
St. Louis, Missouri,
Tuesday, September 13, 1955.

Met, pursuant to notice, at 10:00 a.m.

Before:

FRANK HIER, Hearing Examiner.

Appearances:

FRANK MAYER, Esq., and PHILIP R. MELANCTON, Attorneys for the Federal Trade Commission.

DWIGHT INGAMILLS, Esq., General Counsel, Anheuser-Busch, Inc., St. Louis, Missouri, for the respondent.

EDGAR E. BARTON, Esq., HOWARD J. AIBEL, and WILLIAM D. CONWELL (of White & Case, 14 Wall Street, New York, New York), for the respondent.

HAROLD F. BAKER, Esq. (of Sanders, Gravelle, Whitlock and Markey, Shoreham Building, Washington, D. C.), for the respondent.

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(2)

P R O C E E D I N G S

Hearing Examiner Hietz: This is the initial hearing in Docket 6331, Anheuser-Busch, Inc. All counsel, I know, are thoroughly familiar with the rules of procedure and the evidentiary rules, and there is no necessity of going into that.

I know that you are also familiar with my custom of starting at 9 in the morning, with the exception of the first day. However, if daily or faster copy is ordered, I generally adjourn in the afternoon whenever the reporters notify me that they have had all they can digest that day. Otherwise, we run until 4:30 or 5 o'clock in the afternoon, depending upon how the case goes.

One thing which I think might be noted is that it is unnecessary for counsel to take exceptions. Unless there is some objection, the record may show that counsel on both sides have an automatic exception to everything I do or say on the record in this room, and you may use that as a basis for appeal if you think it is warranted.

I do not think of anything else that needs to be said in advance except, perhaps, that we are in donated quarters. No smoking, no newspapers in this room.

Mr. Mayer.

Mr. Mayer: Mr. Examiner, we would like to call Mr. Hallquist.

John Hallquist, Jr., for Commission—Direct

(3) Hearing Examiner Hier: Come around, sir.

JOHN HALLQUIST, Jr., was thereupon called as a witness for the Commission and, having been first duly sworn, testified as follows:

Direct examination by Mr. Mayer:

Q. Mr. Hallquist, would you give us your business address, please, sir?

A. Yes, sir. Anheuser-Busch, Inc., 721 Pastalozzi Street, St. Louis, Missouri.

Q. How long have you been associated with the Anheuser-Busch Company, sir?

A. Twenty-nine years.

Q. In your association with the company in what capacities have you been employed by the company?

A. Starting at the beginning or at the present date?

Q. At your convenience.

A. Well, at the present time my title with the company is Director of Sales Training. I went into position supposedly in January, 1954. However, because of the business circumstances I have never functioned in that capacity and from January 1, 1954, to date I have been on special assignments for the salesmanager of the company and the president of our company.

Prior to that time I was salesmanager of our Midwest (4) region, which comprises the States of Missouri, Kansas, Iowa, Nebraska, North and South Dakota and Minnesota. I was in that position for about fifteen months.

Prior to that time I was in charge of the branches for Anheuser-Busch, and of course prior to that time I was in charge under the assistant salesmanager of our Eastern

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branches and functioned for a time as branch manager of our Bronx and Manhattan branches.

Prior to that our Boston branch. The story goes on much deeper than that. That takes us back to about 1945 or 1946.

Q. All right, sir. That will be sufficient. Mr. Hallquist, what was your position with the company specifically in the year 1953 and what were the duties of your office at that time?

A. In 1953 I was salesmanager of the Midwest Region and as salesmanager of that area had complete charge of the branches located in that territory, and the wholesalers who sell the products of our company, and naturally I directed the activities of the men who were under me.

Q. Now, sir, what is the Midwest Region?

A. That is the territory comprised of Missouri, Kansas, Iowa, Nebraska, North and South Dakota and Minnesota.

Q. And what was your position with the company throughout the year 1954 and what were the duties involved?

(5) A. I was relieved on January 1, 1954, to take over the position of Director of Sales Training. However, as I mentioned earlier I had no opportunity to function in that position because of the state of our business. Our sales had dropped off very sharply in October, 1953, and there were a great number of special assignments that I was sent on or directed to do by our salesmanager and by the president of our company.

Q. Generally would you tell us the type or the nature of the special assignments on which you were concentrating your efforts?

A. Well, there was some survey work involved which I directed from our St. Louis office. I made trips up into

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Washington and Oregon to look over our sales situation in that area. I made trips into Ohio because of our sales situation in that territory.

I worked very closely in St. Louis with our city sales operation for a considerable part of 1954. That covers about 1954.

(6) Q. Now, are the duties of the position that you just outlined—was that the same position you hold in 1955?

A. I still have that same type of roving assignment.

Q. Are your official duties with Anheuser-Busch more or less defined as the direction of the sales of beer products produced by Anheuser-Busch?

A. That is correct.

Q. Now, Mr. Hallquist, what were the gross sales of Anheuser-Busch of its beer products in 1952?

A. Are you asking in terms of dollars or in terms of barrels?

Q. Either figure will be satisfactory.

A. My memory would have to be refreshed to give you an accurate figure of our total sales in 1952.

Q. Do you have figures here that you could refresh your memory from, sir?

A. I think we have.

(After consulting papers) Our sales of beer in 1952 in barrels were 6,034,442.

Q. And what were the gross sales of the company in beer in 1953, sir?

A. 6,711,222 barrels. Would you like to have the 1954 figures?

Q. Yes, sir; what is the figure for 1954?

A. 1954, 5,828,760.

John Hallquist, Jr., for Commission—Direct

Q. Now, sir, on a national basis what was the total—well, (7) what was the ranking in total sales of Anheuser-Busch in its beer products for 1952?

A. In 1952, if my memory serves me correctly, we were second in total sales in the United States. At that time we had about 7 percent of the total industry sales.

Q. And what was your position in 1953, sir?

A. Our position?

Q. The position of the company in regard to the ranking in total sales in the United States.

A. Anheuser-Busch sold slightly more than its nearest competitor and had a slightly larger share of the total industry than its closest competitor.

However, that is somewhat misleading in that in no major market of the United States is Anheuser-Busch first in sales and in most of them is not even second or third.

For example, in the six largest beer-consuming States of the country, namely, New York, Pennsylvania, Michigan, Ohio, Illinois and California, Anheuser-Busch does not even do its national average in those states—except in Illinois where we have about 10 percent of the business. However, in Illinois we are not even No. 1 in that State.

Our total sales are gained as the result of—well, our large sales are gained as the result of our sale of our products in every part of every state of the United States.

Q. Mr. Hallquist, merely so we won't get lost in the explanation, (8) what was the ranking of Anheuser-Busch on a national basis in the sales of its beer in 1953?

A. It was first.

(9) Q. What was the ranking in total sales of Anheuser-Busch of its beer products on a national basis in 1954?

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A. It was first also. However, I might explain, there was a very, very considerable drop off in our sales and those of our principal competitors. We lost some 900,000 barrels between 1953 and 1954.

Q. Mr. Hallquist, I am not going to quarrel with the explanation, but the figures that you have already given will indicate that, won't they, your gross sales figures?

A. That is correct.

Hearing Examiner Hier: Just a moment, Mr. Mayer.

You brought out that in 1952 Anheuser-Busch had seven percent of the market?

The Witness: Yes, sir.

Hearing Examiner Hier: You have not brought out what they had in 1953 and 1954?

The Witness: To give you the exact figure, Mr. Hier, we had 7.11 in 1952. In 1953 the figure was 7.80. And in 1954 it was an even 7 percent.

Hearing Examiner Hier: Thank you.

By Mr. Mayer:

Q. With relation to 1952, Mr. Hallquist, was the 1953 overall sales of beer in the United States up or down?

A. I would have to consult our records for that. There hasn't been much variation from year to year. As I recall, (10) the high in the beer industry was about 1947, and we have been on a sort of plateau for the last seven years. I believe—although the record would have to be produced—I believe that 1952 was probably a little bit better year than 1953.

Q. Now, what about the year 1954 as opposed to the year 1953?

A. Total sales for the industry?

Q. Yes, sir.

John Hallquist, Jr., for Commission—Direct

A. I would have to look at our total figures. I mean, there are so many figures in this business that it is impossible to remember all of them.

Q. Do you have those figures with you here today, sir?

A. Yes, sir.

Mr. Barton: I have the package beer sales. I take it that is what you are interested in.

Mr. Mayer: No, sir, gross, all beer sales.

Mr. Barton: We can get them, we can get those sales for you, Mr. Mayer. If you want to go ahead I can get those.

By Mr. Mayer:

Q. Where is the home office, Mr. Hallquist, of Anheuser-Busch located?

A. 721 Pestalozzi Street, St. Louis.

Q. Does Anheuser-Busch own and operate more than one (11) brewery or brewing facilities?

A. Yes, sir. We have a plant at Newark, New Jersey and at Los Angeles, California.

Q. And I take it with the plant there in St. Louis that those are the only three production facilities owned by Anheuser-Busch in the operation of its beer business?

A. That is correct.

Q. Now, in what state or states does Anheuser-Busch offer its beer products for sale?

A. Anheuser-Busch of course offers its products for sale, I would say, at its breweries in Newark, St. Louis, and Los Angeles. We sell f.o.b. our plant to wholesalers. And they of course offer the beer for sale in their various states. If I am not mistaken, we can't be licensed to sell beer in every state.

Q. You mean the brewery company can't be licensed?

A. That is correct.

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Q. In what state or states can the consumer purchase Anheuser-Busch products?

A. To the best of my knowledge in all 48.

Q. Does that include the District—

A. As well as some foreign outlets.

Q. And would that include the District of Columbia, sir?

A. Yes, sir.

Mr. Barton: Mr. Mayer, I now have those total (12) industry figures.

Mr. Mayer: Fine.

The Witness: You asked me for the total barrels for 1952?

By Mr. Mayer:

Q. Yes, sir.

A. These are on the basis of tax paid withdrawals, there is no other basis for accumulating these figures. In 1952 the total tax paid withdrawals were 84,836,480 barrels. In 1953 the total withdrawals were 86,045,116 barrels. And in 1954—and these are preliminary figures—82,305,402. I have them from 1947 if you would like to have those.

Q. No, sir, I don't think that they will add anything. But frankly, why do you use the term "preliminary" figures for 1954?

A. Well, I don't know whether these are authentic, whether we are sure that the source is correct.

Q. Are those the figures used by Anheuser-Busch in comparing its markets here for 1954?

A. That is correct.

(13) Q. Now, sir, what is the alcoholic content by volume of the various beers offered for sale by Anheuser-Busch?

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A. We have 3.2 and 4 per cent both.

Q. I am sorry, sir. I didn't hear that. 3.2 and 4 per cent?

A. 3.2 and 4 per cent.

Q. I notice in reporting that very often 5 per cent is disclosed in the reports to the various agencies.

A. Well, one figure will indicate by weight and the other by volume. In other words, 4 per cent beer is the same as 5 per cent beer.

Q. In other words, to the layman there are two types of beer, 3.2 and 5 per cent?

A. That is the way it is spoken of, yes, sir.

Q. And in the reporting of your figures, for instance, in the St. Louis area to the State of Missouri, is it broken down on a 3.2 and 5 per cent basis?

A. I think that is correct, sir.

Q. Now, sir, in the distribution and sale on a nationwide basis of its beer products, with whom does Anheuser-Busch compete nationwide in the sale of its beer products?

A. We compete with every brewer in the United States.

Q. No, sir. The question was on a nationwide basis, your complete national distribution level, with whom does Anheuser-Busch compete?

(14) A. You mean what other breweries sell in every other State in the United States?

Q. Yes, sir.

A. Well, that would have to be simply a guess on my part insofar as some of the breweries are concerned. I do think that Schlitz is a national distributor of beer. I think that Pabst is; I think that Miller is; I think that Blatz is; I think that we have others, Fallstaff, for example, who claim they are distributed over the Nation from coast to coast. I believe that infers that they sell everywhere. We

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have other beers, such as Hamm's, who are very, very widespread in their distribution. Now, whether or not they sell in every one of the 48 States, I don't think we know.

Q. What method or methods of distribution, Mr. Hallquist, does Budweiser make use of in efforts to get its beer products to the consumer?

A. What do you mean by "methods"?

Q. For instance, do you distribute through wholly-owned branches or through independent distributors or what is the method of distribution?

A. We distribute both ways, Mr. Mayer.

Q. Both ways?

A. Yes. In some of the larger metropolitan markets it is almost necessary that we handle the distribution ourselves.

Q. Other than the national competitors that you mentioned a (15) moment ago, Mr. Hallquist, I take it that Anheuser-Busch is in competition with many local or regional beers wherever it happens to find them in the field in which Anheuser-Busch is attempting to sell its products, is that correct, sir?

A. Yes, sir, that is right.

Q. Now, Budweiser is frequently advertised and referred to as a premium priced beer, sir. Would you tell us what a premium priced beer is?

A. That's a very, very hard thing to define. I don't think anyone has come up with a definition as to what is a premium.

Q. Sir, the question was premium priced beer.

A. Well, that again is another question that is exceedingly hard to answer. For example, there are different

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prices in every area of the United States, both for your so-called local, so-called regional and so-called national brands. Now, in many areas the differential between the brands will vary from say 0 to perhaps \$1.22, so that it is pretty hard to state categorically that we sell at a premium price. The market price is dependent upon local conditions.

Q. Whatever your terminology is, sir, is Budweiser sold at a differential, let's say, over many of its competitors?

A. In some places, yes; in some places, no. As I mentioned a minute ago, the so-called differential, there may be none; it may range up to \$1.22.

Hearing Examiner Hier: You are talking about the (16) wholesale price?

The Witness: Yes, sir. And of course at the retail level very often there is no differential whatsoever. In very important segments of the market it will vary from market to market, and it will also vary within the market. There are many outlets within a market that will sell with no differential, and there are other ones that will sell with a differential.

By Mr. Mayek:

Q. What is meant by the advertising of Anheuser-Busch that it is now available at ordinary prices and still being sold at premium prices elsewhere, sir?

A. In areas where Budweiser may have been at a slightly higher price than the so-called regional or so-called local; it is true that in St. Louis our price was the same as the other beers sold in St. Louis, whereas in the other markets the price had not been changed.

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Q. In other words, it was still selling at a premium price in the other markets?

A. If the premium price had existed before.

(17) Q. Well, Mr. Hallquist, I may be somewhat naive, but it has been my experience and, frankly, my conviction that for years Budweiser has been sold at what I would call prices in excess of the normal or usual local price of local and regional beers.

Now is that correct, sir?

A. No, I don't think there has ever been a differential that has been static. In other words, the situation changes from time to time from market to market, from outlets within a market, and there are times where you will find Budweiser at the same prices as so-called regional or local beers.

Q. Now, discarding or eliminating any exceptional times in which the price might have been the same, isn't it true that Budweiser generally and customarily commands a premium price throughout the United States?

A. No, sir, that is not true.

Q. And why not, sir?

A. For the factors that I mentioned before, that there is no regularly established differentials in the beer business. They vary from market to market and place to place. Hence, you can't say that we command a premium price at all times in all markets because it simply isn't true, Mr. Mayer.

Q. I did not ask that sir, at all times and in all markets. I said generally speaking as far as, for instance, the consumer is concerned, Budweiser in the markets throughout the (18) United States, generally speaking, is considered to be a premium priced beer?

A. It actually is not, generally.

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Q. In other words, generally Budweiser is sold at local beer prices throughout the United States?

A. There are times when the price of Budweiser and other beers is the same, in very important markets and important parts of markets.

Q. And that would be generally true twelve months out of the year in all the major markets in the United States, I take it?

A. What would be generally true?

Q. It would be generally true.

Mr. Barton: What would be generally true?

Mr. Mayer: That Budweiser was selling at local beer prices.

The Witness: No, it is not, nor is it generally true that it is the reverse. In other words, I can't tell you with any degree of certainty that there is, nor can I generalize on that particular point.

By Mr. Mayer:

Q. Now, sir, in the discussion, would you tell us what you mean, for instance, by the use of the term "local beer" or "regional beer"?

A. There is no well accepted definition for that. I think that in the trade a local beer is considered to be one that (19) confines their market to a really small area in the immediate town or city that they are in, and a very small area around it. Perhaps you could determine it a metropolitan area. In the case of, well, for example, the St. Louis beers, none of them sell more than 25 per cent of their beer in the City of St. Louis, and St. Louis County. I would consider them regional beers because their distribution is quite widespread. They will go as far as—some of them will wind up in California and Texas. They

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have good distribution in Tennessee, Arkansas, Oklahoma, Kansas, Iowa, Illinois. In other words, they are truly regional in scope as compared to a small brewer in a Minnesota town that markets their products in that particular town.

Q. Now, sir, with regard to the local and regional beers and as I understand it, Anheuser-Busch is in competition with many of them throughout the country in these various areas, is it not, sir?

A. In competition with many of the local and regional breweries, certainly.

Q. Yes.

A. Certainly.

Q. Now, sir, approximately how many of the regional or local beers in any particular given area of the United States is Budweiser sold at the same whole ale price?

A. There is hardly a time when you could make a definite (20) answer to that particular question, Mr. Mayer. The pricing situation in the beer business is not static. It is changing from day to day. There are many changes made without any change at the brewery level or change at the wholesale level. There are changes at the retail level that aren't influenced by one or the other, and it is impossible to give you a general answer on a question of that kind.

Q. Well, to be more specific, take the St. Louis and St. Louis County area. To your knowledge, prior to 1954 on how many occasions and for how long a time was Budweiser or the Anheuser-Busch beer products marketed in this area at the same wholesale price as its competing local or regional beers?

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A. Mr. Mayer, just before the war in the St. Louis and St. Louis County area, there was a period when almost all of the outlets sold Budweiser and the other St. Louis beers at the same price over the bar.

Q. I am sorry, sir. I don't mean to interrupt—was based on the wholesale price of Budweiser?

A. The wholesale price? Will you please restate your question?

Q. Well, to your memory, prior to 1954 on how many occasions and if possible, for what length of time, has Budweiser been sold to—since it operates its own branches here—to the retail trade at what would be the wholesale price, at the same price or identical price, generally speaking, of its local and (21) regional beer competitors?

A. Well, Mr. Mayer, we did a considerable amount of research on trying to get an answer to that question that you ask. Our own records will go back on pricing until about 1945—something like that—'46. The information that we have on prices with competitors is very sketchy and I don't think it is authentic until perhaps 1950 or '51, so there is a considerable period that I can't give you any information about.

In reviewing the book written by Alvin Griesedieck, we do know that beer was legalized, and there was no differential between Fallstaff and Budweiser for a period; when Griesedieck entered the market they sold at a lower price than—for a short time after that, and Fallstaff continued their so-called premiums or higher price and then finally met the price of Griesedieck.

Now, what happened in the years in between I don't know. I would say that in the years between 1947 or '48 there was a differential between Budweiser and that of the other St. Louis beers. However, it varied in amount and

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it wasn't the same, and it varied in amount as to the various kinds of packages we market.

Q. Now, sir, not speaking particularly of the St. Louis market, but with reference to the differential which we were just speaking of, in many areas then is there a differential (22) existing between the price of Budweiser on the wholesale level and the price of the various local and regional beers being sold in competition with Budweiser?

A. I think I brought that out before, that at some point there is no differential and the differential will range up to as high as \$1.22, but there is no fixed differential, nor is there any regular differential, and it would vary.

Q. No, sir, I was not trying to establish a consistent differential, any standard, let's say, difference in the price. I was merely trying to find out if there was a difference.

A. In certain markets there would be differentials. They may have existed or they may not have existed yesterday. In other words, this thing is in a constant state of flux. It is impossible to generalize on it there, sir, because there is a wide range of changes from time to time.

Hearing Examiner Hier: You say \$1.22 a barrel, a case, or what?

The Witness: That is in the case. In my conversation here I am using it as a measuring stick, 24 12 ounce returnable carton bottles.

By Mr. Mayer:

Q. I am sorry. I missed that question and answer.

Hearing Examiner Hier: \$1.22 refers to the case price.

Mr. Barton: Twenty-four 12-ounce bottles.

(23) Hearing Examiner Hier: Twenty-four 12-ounce bottles, returnable bottles.

John Hallquist, Jr., for Commission—Direct

By Mr. Mager:

Q. Now at that point, perhaps, Mr. Hallquist, in the sale and distribution of Budweiser and Anheuser-Busch beer products, will you tell us what type of containers or case lets the beer products are merchandised in?

A. Yes, I mean packaging at the brewery?

Q. Yes, sir.

A. We have 24 12-ounce returnable bottles; we have 24 12-ounce non-returnable bottle that is packed 24 5 and also a 46-bottle carton. We have a 36 7-ounce carton and a 24 7-ounce carton. We have our cans packaged in a 24 12-ounce, in 8 6 package is 48 cans and we also have it packed in 48 12, with 12 cans, four 12 pack cans in package. We also have a 24 16-ounce can. That is also packaged in six 4 can units. We have introduced within the last year a 10-ounce can in a 24 pack, and 8 6 can pack, as well as a fifth bottle containing 25-2 5 ounces. We also package a 12 32 ounce returnable bottle, and a 12 32 ounce non-returnable bottle, and in certain areas we have packed a 24 10-ounce returnable bottle and 24 10-ounce non-returnable bottle. We also package our beer in half barrels.

(24) Q. Now, sir, with regard to the manner and methods of distributing beer products, the beer products of Anheuser-Busch, I think you mentioned you have several branches or company wholesalers or distributors?

A. That is right.

Q. And would you tell us where those are located?

A. We have branches located in Boston; the Bronx, New York; Westbury, New York; at Newark, New Jersey; Baltimore, Maryland; Washington, D. C.; Detroit, Michigan; Cincinnati, Ohio; Chicago, Illinois; St. Paul, Minn.

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nesota; Sioux Falls, South Dakota; Houston, Texas; Denver, Colorado; Los Angeles, California; and San Francisco, California.

Q. If an area is not covered by those particular branches how are the beer products distributed by Anheuser-Busch?

A. Through wholesalers.

Q. And approximately how many wholesalers are engaged in this distribution?

A. We have approximately 700 wholesalers.

Q. Again, sir, approximately what is the relationship to the total amount of sales of Anheuser-Busch through its respective branches and through its independent wholesalers?

A. Approximately 25 percent of all our business is through the company's own branches.

Hearing Examiner Hier: Mr. Mayer, the complaint is not clear to me as to whether or not the charge involves both (25) Budweiser and Michelob or merely Budweiser.

Mr. Mayer: It involves only Budweiser, sir.

By Mr. Mayer:

Q. Now, sir, are you generally familiar with the selling prices of the various beer companies to the wholesalers or at the wholesale level in the St. Louis area for 1953, 1954 and 1955?

A. The breweries' prices to the wholesalers?

Q. Yes, sir.

A. In the St. Louis and St. Louis County market?

Q. Yes, sir.

A. To my knowledge, none of the St. Louis breweries sell to any wholesaler in this market.

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Q. All right, sir, that is fine. Are you familiar with the prices at which breweries acting either as their own distributors or in whatever way we say, sell to the retail outlets in 1953, 1954 and 1955?

A. Yes, sir, I am.

Q. So we will be using the same terminology, Mr. Hallquist, is it your opinion that is a wholesale price to the retail outlet?

A. That is often misunderstood—we generally speak of it as prices to the retailers; so there isn't any misunderstanding we talk in terms of prices to retailers and prices to wholesalers.

Q. All right, sir, fine, just so we will both understand the (26) terminology.

A. Right.

Q. Now, sir, in the St. Louis area in 1953 and 1954 with whom was and is Anheuser-Busch competing in its efforts to sell its beer products?

A. In the St. Louis and St. Louis County market?

Q. Yes, sir.

A. Basically, the other breweries in the City of St. Louis.

Q. And would you tell us who they are, sir?

A. We have Griesedieck Western and Griesedieck Brothers and Falstaff.

Q. Now, as I understand it, then, from a previous answer, the customers or classes of customers sold to Anheuser-Busch in this area, St. Louis and St. Louis County, they would generally be termed retailers, is that correct, sir?

A. That is right.

Q. And what types of outlets would that include?

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A. That would include both what we term on-premise outlets and off-premise outlets.

Q. And would you tell us what they are, the on-premise and off-premise outlets?

A. Well, the on-premise outlet is privileged to sell its merchandise to take out. However, basically the business is for sale by the drink over the counter or at the table; and the off-premise license is only for off-premise consumption and they buy it in the original packages and take it out or (27) off the premises before it may be consumed.

Q. And what would those type outlets be—liquor stores and so forth?

A. In the off-premise group, yes, sir, we have liquor stores, we have super-markets, chain groceries—some drug stores.

Q. And the on-premise, I take it, would be your taverns and bars and hotels, and so on?

A. Taverns, bars, hotels, restaurants, bowling alleys, clubs.

Q. Now, sir, as of January 1, 1954, with regard to sales volume, what position did the Anheuser-Busch Company hold in the St. Louis market area?

And before you answer, Mr. Hallquist, maybe I should explain to the Examiner that in the use of the term "St. Louis market area" I will intend to include the City of St. Louis and the County of St. Louis, terming it the "St. Louis County area," so we will know what was meant by the use of the term "St. Louis County area."

The Witness: And what was your question?

Honorable Examiner Hier: Read the question.

(The question was read by the reporter.)

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Mr. Mayer: Marked as (Commission's Exhibit for identification No. 12 a list of prices headed "Buffalo Branch. (42) Prices to Retailers."

(The document referred to was marked (Commission's Exhibit No. 12 for identification.)

Mr. Mayer: Marked as (Commission's Exhibit No. 13 for identification a list of prices headed "Baltimore Branch. Prices to Retailers."

(The document referred to was marked (Commission's Exhibit No. 13 for identification.)

Mr. Mayer: Marked as (Commission's Exhibit for identification No. 14 a list of prices headed "Washington Branch. Prices to Retailers."

(The document referred to was marked (Commission's Exhibit No. 14 for identification.)

Mr. Mayer: Marked as (Commission's Exhibit for identification No. 15 a list of prices headed "Detroit Branch. Prices to Retailers."

(The document referred to was marked (Commission's Exhibit No. 15 for identification.)

Mr. Mayer: Marked as (Commission's Exhibit for identification No. 16 a list of prices headed "Boston Branch. Prices to Retailers."

Hearing Examiner Here: Wait a minute.

Mr. Barton: You have already marked that.

Hearing Examiner Here: Do you have two Boston branches. No. 8 is a Boston branch also.

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Mr. Mayer: I ask to have marked as Commission's Exhibit for identification No. 7 a price list or a list of prices headed "Cincinnati Branch, Price to Retailers."

(The document referred to was marked Commission's Exhibit No. 7 for identification.)

Mr. Mayer: Marked for identification as Commission's Exhibit No. 8 a list of prices headed "Boston Branch, Price to Retailers."

(The document referred to was marked Commission's Exhibit No. 8 for identification.)

Mr. Mayer: Marked as Commission's Exhibit for identification No. 9 a list of prices headed "Bronx-Manhattan Westbury, Price to Retailers."

(The document referred to was marked Commission's Exhibit No. 9 for identification.)

Mr. Mayer: Marked for identification as Commission's Exhibit No. 10 a list of prices headed "Kearny Branch, Price to Retailers."

(The document referred to was marked Commission's Exhibit No. 10 for identification.)

Mr. Mayer: Marked for identification as Commission's Exhibit No. 11 a list of prices headed "St. Joseph Branch, Price to Retailers."

(The document referred to was marked Commission's Exhibit No. 11 for identification.)

A. Well, the heading here says "1933 Sales Standing of Breweries Selling Over 100,000 Barrels." It is a reprint from the Beer Distributor Magazine.

Q. And does that exhibit which you are now holding generally form the basis for the information which appears on Commission's Exhibit No. 27?

A. I think that is correct, sir.

Mr. Mayer: I should like to offer into evidence (49) Commission's Exhibit for identification No. 2.

Mr. Barton: No objection.

Hearing Examiner Here: Admitted.

(The document referred to, heretofore marked for identification (Commission's Exhibit No. 2), was received in evidence.)

Hearing Examiner Here: Off the record.

(Discussion off the record.)

Hearing Examiner Here: Back on the record.

Mr. Mayer: Now, sir, I should like to have marked as Commission's Exhibit for identification No. 2, a price list headed "St. Louis Branch, Price to Retailers (No. 1)." Hearing Examiner Here: Is that the respondent's price list?

Mr. Mayer: Yes, sir. And marked as Commission's Exhibit No. 6 a price list headed "(Chicago, Price to Retailers (No. 1))."

Hearing Examiner Here: As of what date?

Mr. Mayer: The dates, sir, appear on the documents.

The various price changes appear on the documents.

(The documents referred to were marked (Commission's Exhibits 2 and 6 for identification.)

Mr. Barton: No objection, Your Honor.
Hearing Examiner Hier: Admitted.

(The documents referred to, heretofore marked for identification Commission's Exhibits Nos. 1 and 4, were received in evidence.)

By Mr. Mayer:

Q. Now, sir, I show you Commission's Exhibit for identification No. 3, and ask you—I am sorry—Commission's Exhibit for identification No. 2, and ask you, sir, what the document is.

A. Well, this is a list in order of rank of the 25 largest selling beers in the United States for 1933.

(39) Q. And what is the document, sir? Is it a document used by the company, or what is it?

A. That is correct, we use it as a point-of-sale item. Q. And I take it that was in the possession of or given to your salesmen in the course of their duties or their calls.

A. In all markets in the country.

Q. In all markets; all right, sir.

Mr. Mayer: Mr. Examiner, I should like to offer evidence Commission's Exhibit for identification No. 2.

Mr. Barton: No objection.

Hearing Examiner Hier: Admitted.

(The document referred to, heretofore marked for identification as Commission's Exhibit No. 2, was received in evidence.)

By Mr. Mayer:

Q. Now, sir, I show you Commission's Exhibit for identification No. 3, and ask you what that document is.

John Hallquist, Atty for Commission-Board

Re Mr. Mayor:

Q. Mr. Hallquist, directing your attention to Commission's Exhibit for identification No. 1, would you tell us what that is, sir?

A. That is a list of the officers of Anheuser-Busch and the directors of Anheuser-Busch.

Q. And is that list correct as of the date appearing thereon?

A. To the best of my knowledge it is.

Q. Have there been any changes, sir, since that date in the officers or directors of the company?

A. There have been, sir.

Q. Would you state the corrections or additions of date with regard to that list since that time?

Hearing Examiner Here: Just a moment. Have you got a present list?

Mr. Barton: Yes, sir, Your Honor, we do have.

Hearing Examiner Here: We might just as well put that in.

(38) The Witness: We would have to compare them.

Mr. Mayor.

Hearing Examiner Here: Make it No. 4.

Mr. Mayor: All right, sir.

As Commission's Exhibit for identification No. 4, the present list of officers and directors of Anheuser-Busch.

(The document referred to was marked Commission's Exhibit No. 4 for identification.)

Mr. Mayor: At this time, sir, I would like to offer Commission's Exhibit for identification No. 1 and No. 4 into evidence.

Hearing Examiner Here: Any objection, Mr. Barton?

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Hearing Examiner Here: All right.

The Witness: May I ask one question? Did I fully answer you concerning the manpower? You asked for 72, did you also want 74?

Mr. Mayer: No, sir, I did not. I asked specifically for 73.

The Witness: I see.

Hearing Examiner Here: We will take a short recess.

(Short recess taken.)

Hearing Examiner Here: The hearing will be in order. Mr. Mayer: At this time, sir, I should like to have

several exhibits marked for identification.

As Commission's Exhibit for identification No. 1, I

revised list dated April 14, 1954 of the officers of Anheuser-

Busch, Inc., as well as a list of directors of Anheuser-

Busch.

(The document referred to was marked (The

Commission's Exhibit No. 1 for identification.)

Mr. Mayer: As Commission's Exhibit for identification

No. 2, an advertising piece showing the 1953 sales of the

35 leading breweries.

(The document referred to was marked (The

Commission's Exhibit No. 2 for identification.)

(37) Mr. Mayer: As Commission's Exhibit for identification

No. 3, a publication piece showing the 1953 sales of

of brewing companies in the United States selling in excess

of 100,000 barrels.

(The document referred to was marked (The

Commission's Exhibit No. 3 for identification.)

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three times a week. And with a limited number of salesmen such as we had, and with some 4,500 retail outlets in the city, it is obvious that they can't make coverage more than about once a month.

(52) Q. In announcing its price reduction in June of '34, Mr. Hallquist, did the Anheuser-Busch Company make use of newspaper advertising?

A. Yes, sir.

Q. And did it also make use of billboard advertising?

A. Yes, sir, all forms of consumer media, I would say.

Q. Did you also make use of what might be termed bar placards and local retail —

A. You mean did we put up signs in retail outlets?

Q. Yes, sir.

A. Yes, sir, we did.

Hearing Examiner Hiler: For what, advertising of beer or advertising reduction in price?

The Witness: "Budweiser now at" whatever price the outlet customarily got for the beers brewed in St. Louis.

By Mr. Mayer:

Q. Now, sir, with regard to the beer produced by the various breweries in Newark and at St. Louis and Los Angeles, is there any difference in the grade or the quality of the Budweiser produced at one plant as opposed to the Budweiser produced at the others?

A. Now whatsoever.

Mr. Mayer: May we have a few moments before we go into another taget?

Hearing Examiner Hiler: Do you want a few minutes? (36) recess?

Mr. Mayer: Yes, sir.

Q. It is perfectly all right, sir.

A. I have it month by month here. Do you want it for the (33) year or just one figure for the year, or

Q. Is it a figure that varies so much that there isn't somewhat of a constant in there of approximately some number?

A. Yes, it is pretty much of a constant. You are asking about 1953?

Q. Yes, sir.

A. From August until December we average 18, 16, 17, 19 and 18. In other words, we had men leave us and we put others on, and it is never a static number.

Q. And what were their duties, sir, in 1953?

A. Salesmen?

Q. Yes.

A. Some of them were charged—a part of this crew

were on the solicitation and merchandising of our products in the off-premises outlet, some of them were working on the on-premises outlet. And the duties are pretty to contact the retailer, to see that our product is properly identified in the outlet by putting up point-of-sale material in outlets where we can to merchandise our product by building displays, and to sell new packages to outlets if they don't presently handle that package.

Q. And in addition to that, as I understand it, you also used the method of telephone solicitation in 1953?

A. To actually get the orders, yes.

Q. You mean the salesmen did not take orders?

(34) A. They wouldn't cover their territories frequently enough to give adequate service to a customer. In other words, most of your retail outlets—some of them will buy every day, some of them will buy twice a week.

A. We have had a hard sales campaign on even before the sales decrease in June. Actually we have constantly been working to get a better share of the St. Louis market. And when I was regional sales manager for this area I made some innovations in our operation of our city sales department. For example, our emphasis was on the tavern outlet for many, many years. And we sort of have overlooked the importance of the growing home market. So that one of the things I did was split our sales force into a two-unit (52) operation, one part of the group were charged with the responsibility of sales in the on-premises outlet, the other group was charged with the responsibility of off-premises sales. And a supervisor headed each one of the groups.

Q. I don't wish to interrupt, but was this prior to June, 1954?

A. Yes, this was prior to June. And in the latter months of 1953, because all of our competitors in the St. Louis and St. Louis County market sold their beer off of route wagon trucks, in other words, brought the beer right to the outlet and offered it for sale there, while we in the past had used telephone solicitation, which didn't give us the kind of contact and the availability that the retailer wanted. We made plans and began early in 1954 to change over from this telephone solicitation of orders to a route wagon system of delivery. And of course as we went along into the year of 1954 we expanded our advertising efforts very greatly.

Q. Mr. Hallquist, how many salesmen did you employ in the St. Louis City and County area in 1953?

A. I have got the exact number. I mean, when you trust to memory you are very apt to make mistakes. And I would like to get that sheet out, if I may.

The Witness: The figure for June 21, 1954 is:

Hearing Examiner Hier: Is the competitive figure?

The Witness: Yes, sir.

Hearing Examiner Hier: What about the other two

columns?

The Witness: In both instances we were somewhat higher than the prices of other beers.

Hearing Examiner Hier: Tell me this, then. Is the

column of figures for June 21, 1954 the prices which your competitors were charging for beer on 1-4-54 and 12-31-53?

The Witness: That is correct.

Hearing Examiner Hier: Thank you.

Mr. Mayer: I am sorry, I didn't get the last question

and answer.

(31) Hearing Examiner Hier: I asked him if the

prices shown in the last column headed 6-21-54 were the prices which his competitors which he has named here in the record were charging on the two previous dates. And the answer was yes.

By Mr. Mayer:

Q. And I understand it, Mr. Hallquist, in St. Louis County and the St. Louis area Budweiser is its own distributor, it sells to the retailers directly.

A. Directly from the Brewery just the same as the other beers in St. Louis, they all sell directly from the Brewery to the retailer.

Q. Now, in connection with the price reduction of June 21 of 1954 did the company initiate a sales campaign in connection with this lowering of the price or make any special efforts to announce its price reduction in this area?

A. There was another reduction, yes, sir.
Q. And what was that, sir, speaking particularly again of the 24 quantity case of 12 returnables?
A. The amount of the reduction?

Q. Yes, sir.

A. 23 cents.

Q. And was this reduction proportionately the same, without being the same amount, of course, but also on the other containers being offered by Anheuser-Busch in this area?

A. That is correct.

Q. And was there a price reduction to the retailer of the price of draft Budweiser in June of 1954?

A. There was.

Q. Now, sir, when the price reduction was made by Anheuser-Busch in June of 1954 did that result in the sale of the various packages of Budweiser to the retailer, was that price the same as the price used by the local or regional or the other competitors in this area?

A. It was the same price as the price of the other St. Louis breweries.

(30) Hearing Examiner Hiet: Wait a minute. I don't understand that. If I understand the pleadings correctly here, the table set forth in Paragraph 5 of those reductions on three different occasions is admitted to be correct.

Is that correct, Mr. Barton?

Mr. Barton: That is correct, your Honor.

Hearing Examiner Hiet: All right. Let's be definite about this. What I want to know, Mr. Haddquist, is this: Were those figures or any of those exactly the figures that were charged by your competitors that you have named here on those dates?

John Hallquist, Jr., for Commission—Direct

By Mr. Mager:

Q. What is the answer?

(28) A. We had roughly about 13 percent of the market here at that time.

By Mr. Mager:

Q. Now, sir, in the reporting system of Anheuser-Busch to the State of Missouri, in reporting the package beer sales, for instance, of Anheuser-Busch in 1953 and 1954, were only sales of Budweiser included in those reports?

A. Yes, sir.

Q. There was no other package beer being sold by Anheuser-Busch in the St. Louis market in 1953 and 1954?

A. No.

Q. Now, sir, was there a price reduction in the whole sale price of Budweiser made by the Anheuser-Busch Company during January of 1953?

A. You are talking now that there was a reduction in price to the retailers?

Q. Yes, sir.

A. Yes, sir; there was.

Q. And speaking particularly of the 24 quantity case of 12 returnables, approximately what did that price reduction amount to?

A. 25 cents.

Q. Was there a similar—not in exact amount, but a comparable price reduction made on the other containers of Budweiser offered as package goods in the area?

(29) A. That is right.

Q. Now, sir, was there a price reduction made by Anheuser-Busch on its sale of Budweiser to the retailers during the month of June in 1954?

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(43) Mr. Mayer: May we go off the record?

Hearing Examiner Hier: Yes. Off the record.

(Discussion off the record.)

Hearing Examiner Hier: On the record.

Mr. Mayer: Mr. Examiner, may we go back? I was mistaken in the identification of Commission's Exhibit for identification No. 8. That should have been identified as a list of prices of the Houston Branch.

Hearing Examiner Hier: No. 16 is the Boston Branch?

Mr. Mayer: No. 16 is the list of prices headed "Boston Branch. Prices to Retailers."

(The document referred to was marked Commission's Exhibit No. 16 for identification.)

Hearing Examiner Hier: Have you marked all those exhibits yourself?

Mr. Mayer: No, sir, I have not.

Hearing Examiner Hier: When you get through we will take time out so the reporter gets a chance to mark them so they won't get mixed up.

Mr. Mayer: All right, sir.

Marked as Commission's Exhibit for identification 17 a list of prices headed "Kansas City Branch. Prices to Retailers."

(The document referred to was marked Commission's Exhibit No. 17 for identification.)

(44) Mr. Mayer: Marked as Commission's Exhibit for identification No. 18 a list of prices headed "St. Paul Branch. Prices to Retailers."

(The document referred to was marked Commission's Exhibit No. 18 for identification.)

John Hallquist, Jr., for Commission—Direct

Mr. Mayer: Marked as Commission's Exhibit for identification No. 19 a list of prices headed "Sioux Falls Branch. Prices to Retailers."

(The document referred to was marked Commission's Exhibit No. 19 for identification.)

Mr. Mayer: Marked as Commission's Exhibit for identification No. 20 a list of prices headed "Denver Branch. Prices to Retailers."

(The document referred to was marked Commission's Exhibit No. 20 for identification.)

Mr. Mayer: Marked as Commission's Exhibit for identification 21 a list of prices headed "San Francisco Branch. Prices to Retailers."

(The document referred to was marked Commission's Exhibit No. 21 for identification.)

Mr. Mayer: And marked as Commission's Exhibit for identification 22 a list of prices headed "Los Angeles Branch. Prices to Retailers."

(The document referred to was marked Commission's Exhibit No. 22 for identification.)

(45) Hearing Examiner Hier: Are these dates coincident on all of these exhibits?

Mr. Mayer: On some, but not all, sir. The dates are fairly self-explanatory, but I will ask Mr. Hallquist one or two explanatory questions about them.

By Mr. Mayer:

Q. Now, sir, directing your attention, Mr. Hallquist, to the documents that have been marked as Commission's

John Hallquist, Jr., for Commission—Direct

Exhibits for identification 5 through 22, would you tell us what they are, sir?

A. They are our prices from the branch location to the retail outlets in that community or market.

Q. That would be the prices by the wholly owned branch of Budweiser doing its own distributing to the retail outlets in that particular marketing area?

A. That is correct.

Q. Now, sir, as a matter of explanation, several of the exhibits read "Pre-October" and "Post-October." Would you tell us to what year that refers?

A. That refers to 1953.

Q. 1953.

Mr. Mayer: At this time, Mr. Examiner, I should like to offer Commission's Exhibits for identification 5 through 22, inclusive, into evidence.

Mr. Barton: No objection.

(46) Hearing Examiner Hier: Admitted.

(The documents referred to, heretofore marked for identification Commission's Exhibits 5 through 22, were received in evidence.)

Mr. Mayer: Now, sir, I should like to have marked as Commission's Exhibit for identification No. 23 a list of prices headed "Budweiser and Michelob Prices."

Hearing Examiner Hier: Dated?

Mr. Mayer: The dates appear thereon with regard to the price changes. This does bear a date at the bottom and the name of J. E. Ritter, dated October 26, 1954.

(47) *By Mr. Mayer:*

Q. Mr. Hallquist, I show you what has been marked Commission's Exhibit for identification 23 and ask you what that document is.

John Hallquist, Jr., for Commission—Direct

A. This is a list of Budweiser and Michelob prices, f.o.b. our plant to wholesale locations in various parts of the country. And if I may, these figures are the latest figures, I believe. (After examining document) Yes, that is right.

Mr. Mayer: May we go off the record a moment?

Hearing Examiner Hier: Yes.

(Discussion off the record.)

Hearing Examiner Hier: On the record.

By Mr. Mayer:

Q. As I understand Commission's Exhibit for identification No. 23, Mr. Hallquist, this is the prices of Anheuser-Busch to its wholesalers, the wholesale prices rather than the prices to its various branches?

A. That is right.

Q. That is used by the company in distributing its beer—

Mr. Ingamells: F.o.b.

Mr. Mayer: Well, it says so on the exhibit. I would like to offer, Mr. Examiner, Commission's Exhibit for identification 23 into evidence.

Mr. Barton: No objection, your Honor, subject to correction as to currency of the prices on it; and also I would like to have permission to withdraw it to have a photostat (48) made of it, inasmuch as we do not seem to have a copy of it at the present time.

Hearing Examiner Hier: Admitted. You have to get the photostated copies.

(The document referred to, heretofore marked Commission Exhibit 23 for identification, was received in evidence.)

John Hallquist, Jr., for Commission—Direct

Hearing Examiner Hier: I take it, Mr. Mayer, you are offering these exhibits to show rankings of various breweries in the United States, for that purpose. Now, are any of these breweries under control—I mean, under joint operation? For instance, I see here Griesedieck Western and Griesedieck Brothers. Are these combined?

Mr. Mayer: No, sir. I think we will point out as we go along those are two separate and individual companies.

Hearing Examiner Hier: Well, on this Commission Exhibit 3, for instance, City Products Company is totally unknown to me. Is that in—where is that?

The Witness: They are in New Orleans and in Cleveland, Ohio.

Hearing Examiner Hier: How about Jacksonville?

The Witness: I am not too sure there—there has been a change of ownership of one brewery in Florida a short time ago.

Mr. Mayer: I would like at this time to have marked as Commission's Exhibit for identification 24 a memorandum dated June 18, 1954, to J. E. Barsi from J. Hallquist, Jr.

(49) (The document referred to was marked Commission Exhibit 24 for identification.)

Mr. Mayer: I would like to have marked for identification as Commission's Exhibit 25-A, -B, -C, -D and -E—well, may we go back? I would like to mark this exhibit differently.

Mark as Commission's Exhibit for identification No. 25 a memorandum dated Friday, June 17th—and may we go off the record a moment?

Hearing Examiner Hier: Yes.

(Discussion off the record.)

John Hallquist, Jr., for Commission—Direct

Hearing Examiner Hier: On the record. From whom to whom?

Mr. Mayer: There is no indication, sir, on the memorandum as to where or from whence it came.

(The document referred to was marked Commission Exhibit 25 for identification.)

Mr. Mayer: I would like to say the same is true of the next exhibit to be marked for identification.

Mark as Commission's Exhibit for identification 26 a memorandum generally disclosing salesmens' calls dated—

Hearing Examiner Hier: Wait a minute. Two pages?

Mr. Mayer: Yes, sir.

Hearing Examiner Hier: That will be -A and -B.

Mr. Mayer: Dated—again, we have a mix up in (50) dates. It is actually dated Saturday, June 18, 1954.

Hearing Examiner Hier: Is it signed?

Mr. Mayer: No, sir, it is unsigned.

(The document referred to was marked Commission Exhibit 26-A and 26-B for identification.)

Mr. Mayer: I would like to have marked as Commission's exhibit for identification 27-A and -B a two-page memorandum dated June 21, 1954 to Mr. J. E. Barsi from Mr. J. Hallquist, Jr.

(The document referred to was marked Commission Exhibit 27-A and -B for identification.)

Mr. Mayer: I would like to have marked for identification as Commission's Exhibit 28-A and -B an undated, unsigned two-page memorandum of notes.

Hearing Examiner Hier: And the subject?

Mr. Mayer: It has no subject, sir. The contents will be related to the other memorandums.

John Hallquist, Jr., for Commission—Direct

Hearing Examiner Hiett: All right.

(The document referred to was marked Commission Exhibit 28-A and 28-B for identification.)

Mr. Mayer: Now, sir, mark as Commission's exhibit for identification 29-A and -B a two-page memorandum dated June 22, 1954 to Mr. J. E. Barsi from Mr. J. Hallquist, Jr.

(The document referred to was marked Commission Exhibit 29-A and 29-B for identification.)

(51) Mr. Mayer: Mark as Commission's exhibit for identification 30-A, -B and -C, three pages dated Tuesday, June 22, 1954, generally descriptive of salesman's calls.

(The document referred to was marked Commission Exhibit 30-A, -B and -C for identification.)

Mr. Mayer: Mark as Commission's exhibit for identification 31-A and -B a two-page memorandum dated June 25, 1954 to Mr. J. E. Barsi from Mr. J. Hallquist, Jr.

(The document referred to was marked Commission Exhibit 31-A and 31-B for identification.)

Mr. Mayer: Mark as Commission's exhibit for identification 32 a telegram dated June 25, 1954 from Mr. J. Hallquist, Jr., to Mr. J. E. Barsi.

(The document referred to was marked Commission Exhibit 32 for identification.)

Mr. Mayer: Mark as Commission's exhibit for identification No. 33 a memorandum dated June 25, 1954 to Mr. J. E. Barsi from J. Hallquist, Jr.

(The document referred to was marked Commission Exhibit 33 for identification.)

John Hallquist, Jr., for Commission Direct

Mr. Mayer: Now, Mr. Hallquist, I should like to show you Commission exhibits for identification Nos. 24 through 33—

By Mr. Mayer:

Q. First of all, I didn't get the "Junior" on your name, but (52) I take it you are the "J. Hallquist" referred to on these documents, are you not?

A. That is correct, sir.

Q. Now, sir, directing your attention to Commission exhibits for identification 24 through 33, would you tell us what those exhibits are, please, sir?

A. You want me to match them—because we have two things here, apparently—

Q. Yes, sir, please—just what they are.

A. Well, the Exhibit 24 is a letter to Mr. Barsi written by me.

Exhibit 25 is a memorandum detailing the results of salesmen's calls.

26-A is a memorandum detailing results of salesmen's calls.

27-A is a letter to Mr. Barsi by myself.

Q. That would be 27-A and -B, sir?

A. 27-A and -B.

28-A and -B are some handwritten notations.

Q. Now, by whom were those made?

A. By me.

Q. By you?

A. Yes, sir.

29-A is a memorandum to Mr. Barsi written by myself—that is 29-A and -B.

Exhibit 30-A, -B and -C are reports of salesmen.

(53) Exhibit 31-A and -B is a memorandum written by myself to Mr. Barsi.

John Hallquist, Jr., for Commission—Direct

Item 32 is a telegram sent by me to Mr. Barsi.

Item 33 is a memorandum to Mr. Barsi from myself.

Hearing Examiner Hier: Who is Mr. Barsi?

The Witness: Mr. Barsi was vice president and sales manager of Anheuser-Busch.

By Mr. Mayer:

Q. And at that time, Mr. Hallquist, were his duties confined to the beer products of Anheuser-Busch?

A. Well, I believe he had some jurisdiction over the cabinet division but his main job was with the brewery sales division.

Mr. Mayer: Mr. Examiner, in the description of the documents by Mr. Hallquist, I noted that we failed to mark this exhibit as Commission's Exhibit 24-A, -B and -C. It is a fact that it is a three-page document and should have been so marked.

Hearing Examiner Hier: You will correct the record, Mr. Reporter.

(The document referred to, heretofore marked Commission Exhibit 24 for identification, was re-marked Commission Exhibit 24-A, -B and -C for identification.)

Mr. Mayer: I should like then at this time to offer into evidence Commission exhibits for identification 24 through 33.

(54) Mr. Barton: No objection, your Honor.

Hearing Examiner Hier: Admitted.

(The documents referred to, heretofore marked Commission Exhibits 24-A, -B, -C; 25; 26-A, -B; 27-A, -B; 28-A, -B; 29-A, -B; 30-A, -B, -C; 31-A, -B; 32; and 33, were received in evidence.)

John Hallquist, Jr., for Commission-Direct

Mr. Mayer: Now, sir, I should like to have marked as Commission's exhibit for identification No. 34, an advertising piece dated Friday, June 25, 1954, taken from the St. Louis Post-Dispatch.

Hearing Examiner Hier: By the respondent?

Mr. Mayer: Yes, sir.

(The document referred to was marked Commission Exhibit 34 for identification.)

Mr. Mayer: I should like to have marked Commission's Exhibit for identification 35 an advertising piece of respondents marked "P54-5."

(The document referred to was marked Commission Exhibit 35 for identification.)

Mr. Mayer: I should like to have marked Commission's Exhibit for identification 36 an advertising piece of the respondent which is undated.

Hearing Examiner Hier: Does it have a tear-sheet number?

Mr. Mayer: No, sir, it does not.

(55) (The document referred to was marked Commission Exhibit 36 for identification.)

Mr. Mayer: I should like to have marked as Commission's Exhibit for identification 37 an advertising piece of respondent bearing the marking "P54-8."

(The document referred to was marked Commission Exhibit 37 for identification.)

Mr. Mayer: I should like to have marked as Commission's Exhibit for identification No. 38 an advertising piece of respondents bearing the marking "P54-6."

John Hallquist, Jr., for Commission—Direct

(The document referred to was marked Commission Exhibit 38 for identification.)

(56) Mr. Mayer: I would like to have marked as Commission's Exhibit for identification No. 39 an advertising piece of respondent marked P 547.

(The document referred to was marked Commission's Exhibit 39 for identification.)

Hearing Examiner Hier: Do you have 34 through 39 all marked now?

Mr. Mayer: Yes, sir.

Mr. Barton: No objection, your Honor.

Hearing Examiner Hier: 34 through 39 are admitted in evidence.

(The documents referred to, heretofore marked Commission's Exhibits 34 through 39 for identification, were received in evidence.)

By Mr. Mayer:

Q. Mr. Hallquist, referring to Commission's Exhibit 35, would you tell us to what use that advertising piece was put by Anheuser-Busch.

A. Frankly, I don't know whether this is a newspaper ad or whether it is a piece of point-of-sales material.

Q. Was it a piece of material used by Anheuser-Busch during 1954?

A. Yes, sir; it was.

Q. Now, sir, directing your attention to Commission's Exhibit 36, would you tell us what that is and where it (57) appeared.

A. It appears to have been a newspaper advertisement.

John Hallquist, Jr., for Commission—Direct

Mr. Mayer: Do you have records by which he might refresh his memory about the date of it?

Mr. Barton: We can get that. I don't have them at the present moment, but that can be determined. *

Hearing Examiner Hier: Off the record.

(Discussion off the record.)

Hearing Examiner Hier: On the record.

Mr. Mayer: And is it understood, Mr. Examiner, that Mr. Barton will mark on the exhibits physically in ink where the particular advertising material appeared?

Mr. Barton: And the date.

Hearing Examiner Hier: And the date of the advertisement. That will apply to 35, 36, 37, 38 and 39.

Mr. Mayer: I should like to have marked as Commission's Exhibit for identification 40 an advertising piece of the respondent. It bears no further identifying label.

(The document referred to was marked Commission's Exhibit 40 for identification.)

Mr. Mayer: I should like to have marked as Commission's Exhibit for identification 41 page 14-B of the Observer dated Wednesday, June 23, 1944.

(The document referred to was marked Commission's (58) Exhibit 41 for identification.)

Mr. Mayer: I should like to have marked as Commission's Exhibit for identification 42 a page of the Observer, page 11-B, dated Wednesday, June 23, 1954.

(The document referred to was marked Commission's Exhibit 42 for identification.)

Mr. Mayer: At this time, Mr. Examiner, I should like to offer in evidence Commission's Exhibits for identification No. 40, 41 and 42.

John Hallquist, Jr., for Commission—Direct

Hearing Examiner Hier: Mr. Barton.

Mr. Barton: No objection.

Hearing Examiner Hier: Admitted.

(The documents referred to, heretofore marked Commission's Exhibits 40, 41 and 42 for identification, were received in evidence.)

By Mr. Mayer:

Q. Now, Mr. Hallquist, directing your attention to Commission's Exhibit No. 40, would you tell us to what use that particular piece of material would be put by Anheuser-Busch.

A. This is a piece of point-of-sale material.

Q. Would that be the type of placard that we might find exhibited in the bar of a local tavern or any retail outlet on or off the premises?

A. Yes, sir.

(59) Q. And was this used during 1954 by Anheuser-Busch?

A. Yes, sir.

Mr. Mayer: Now I should like to have marked as Commission's Exhibit for identification 43 a memorandum dated July 13, 1954 from Mr. F. P. Rollins, Jr. to Mr. A. von Gontard.

(The document referred to was marked Commission's Exhibit 43 for identification.)

Mr. Mayer: I should like to have marked as Commission's Exhibit for identification 44 a memorandum from Mr. A. von Gontard to Mr. Frank Rollins, dated July 7, 1954.

(The document referred to was marked Commission's Exhibit 44 for identification.)

John Hallquist, Jr., for Commission—Direct

Hearing Examiner Hier: Mr. Barton.

Mr. Barton: No objection.

Mr. Mayer: I should like to offer Commission's Exhibit 43 and 44 into evidence.

Mr. Barton: No objection.

Hearing Examiner Hier: Admitted.

(The documents referred to, heretofore marked Commission's Exhibits 43 and 44 for identification, were received in evidence.)

Mr. Mayer: Now, sir, I should like to have marked as Commission's Exhibit for identification 45 a (60) tabulation of figures dated March 1, 1954 headed "Draft and Bottle Beer Sales—St. Louis and St. Louis County", comparing the months of January, 1953 and January, 1952—I am sorry, the date is a little indistinct on the exhibit, it should be dated March 17, 1953.

Hearing Examiner Hier: Draft and bottle beer sales by whom?

Mr. Mayer: This is a comparison of the entire market for St. Louis and St. Louis County.

Hearing Examiner Hier: Is that a one-page document?

Mr. Mayer: Yes, sir. They are all single, one-page documents.

(The document referred to was marked Commission's Exhibit 45 for identification.)

Mr. Mayer: I should like to have marked as Commission's Exhibit for identification 46 a document dated April 14, 1954 headed "Draft and Bottle Beer Sales—St. Louis and St. Louis County", comparing the months of February, 1953 and 1952.

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(The document referred to was marked Commission's Exhibit 46 for identification.)

Mr. Mayer: I should like to have marked as Commission's Exhibit for identification No. 47 a document headed "Draft and Bottle Beer Sales—St. Louis and St. Louis (61) County", dated May 28, 1953, comparing the months of March, 1953 and March, 1952.

(The document referred to was marked Commission's Exhibit 47 for identification.)

Mr. Mayer: I should like to have marked as Commission's Exhibit for identification No. 48 a document headed "Draft and Bottle Beer Sales—St. Louis and St. Louis County", dated June 10, 1953, comparing the months of April, 1953 and April, 1952.

(The document referred to was marked Commission's Exhibit 48 for identification.)

Mr. Mayer: I should like to have marked as Commission's Exhibit for identification No. 49 a document headed "Draft and Bottle Beer Sales—St. Louis and St. Louis County", dated July 14, 1953, comparing the months of May, 1953 and 1952.

(The document referred to was marked Commission's Exhibit 49 for identification.)

Mr. Mayer: I would like to have marked as Commission's Exhibit for identification No. 50 a document headed "Draft and Bottle Beer Sales—St. Louis and St. Louis County", dated August 20, 1953, comparing the months of June, 1953 and June, 1952.

(The document referred to was marked Commission's Exhibit 50 for identification.)

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(62) Mr. Mayer: I should like to have marked as Commission's Exhibit for identification No. 51 a document headed "Draft and Bottle Beer Sales—St. Louis and St. Louis County", dated September 23, 1953, comparing the months of July, 1953 and 1952.

(The document referred to was marked Commission's Exhibit 51 for identification.)

Mr. Mayer: I should like to have marked as Commission's Exhibit for identification No. 52 a document headed "Draft and Bottle Beer Sales—St. Louis and St. Louis County", dated October 20, 1953, comparing the months of August, 1953 and 1952.

(The document referred to was marked Commission's Exhibit 52 for identification.)

Mr. Mayer: I should like to have marked as Commission's Exhibit for identification No. 53 a document headed "Draft and Bottle Beer Sales—St. Louis and St. Louis County", dated November 12, 1953, comparing the months of September, 1953 and 1952.

(The document referred to was marked Commission's Exhibit 53 for identification.)

Mr. Mayer: I should like to have marked as Commission's Exhibit for identification No. 54 a document headed "Draft and Bottle Beer Sales—St. Louis and St. Louis County", dated December 10, 1953, comparing the months (63) of October, 1953 and 1952.

(The document referred to was marked Commission's Exhibit 54 for identification.)

Mr. Mayer: I should like to have marked as Commission's Exhibit for identification No. 55 a document headed

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“Draft and Bottle Beer Sales—St. Louis and St. Louis County”, dated June 29, 1954, comparing the months of November, 1953 and 1952.

(The document referred to was marked Commission’s Exhibit 55 for identification.)

Mr. Mayer: I should like to have marked as Commission’s Exhibit for identification No. 56 a document headed “Draft and Bottle Beer Sales—St. Louis and St. Louis County”, dated February 15, 1954, comparing the months of December, 1953 and 1952.

(The document referred to was marked Commission’s Exhibit 56 for identification.)

Mr. Mayer: I should like to have marked as Commission’s Exhibit for identification 57 a document headed “Draft and Bottle Beer Sales—St. Louis and St. Louis County”, dated March 10, 1954, comparing the months of January, 1954 and 1953.

(The document referred to was marked Commission’s Exhibit 57 for identification.)

(64) Mr. Mayer: Mark as Commission’s Exhibit for identification 58 the document headed “Draft and Bottle Beer Sales, St. Louis and St. Louis County,” dated April 1, 1954, comparing the months of February 1954 and 1953.

(The document referred to was marked Commission’s Exhibit No. 58 for identification.)

Mr. Mayer: Mark as Commission’s Exhibit for identification 59 a document headed “Draft and Bottle Beer Sales, St. Louis and St. Louis County,” dated May 10, 1954, comparing the months of March 1954 and 1953.

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(The document referred to was marked Commission's Exhibit No. 59 for identification.)

Mr. Mayer: Mark as Commission's Exhibit for identification No. 60 a document headed "Draft and Bottle Beer Sales, St. Louis and St. Louis County," dated June 11, 1954, comparing the month of April 1954 with the month of April 1953.

(The document referred to was marked Commission's Exhibit No. 60 for identification.)

Mr. Mayer: Mark this Commission's Exhibit for identification 61, a document headed "Draft and Bottle Beer Sales, St. Louis and St. Louis County," dated July 13, 1954, comparing the months of May 1954 and 1953.

(The document referred to was marked Commission's Exhibit No. 61 for identification.)

Mr. Mayer: Mark as Commission's Exhibit for identification (65) No. 62 a document headed "Draft and Bottle Beer Sales, St. Louis and St. Louis County," dated August 13, 1954, comparing the months of June 1954 and 1953.

(The document referred to was marked Commission's Exhibit No. 62 for identification.)

Mr. Mayer: Mark as Commission's Exhibit for identification 63 a document headed "Draft and Bottle Beer Sales, St. Louis and St. Louis County," dated September 20, 1954, comparing the months of July 1954 and 1953.

(The document referred to was marked Commission's Exhibit No. 63 for identification.)

Mr. Mayer: Mark as Commission's Exhibit for identification 64 a document headed "Draft and Bottle Beer Sales,

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St. Louis and St. Louis County," dated October 11, 1954, comparing the months of August 1954 and 1953.

(The document referred to was marked Commission's Exhibit No. 64 for identification.)

Hearing Examiner Hier: Whose figures are these, Counsel?

Mr. Mayer: They were submitted by Anheuser-Busch.

May we have just a moment to show these to counsel?

Hearing Examiner Hier: Yes. Off the record.

(Discussion off the record.)

Mr. Barton: Your Honor, I might state on the record the problem we have with respect to these.

(66) Hearing Examiner Hier: Do you want this on the record?

Mr. Barton: Yes, I think so.

First of all, these records are kept by the City Sales Department. I do not know the source of the figures that are on here (indicating exhibits). We have collected from official sources the accurate figures for each of these months and other months. Subject to correction from those official figures, of course, these figures are all right to go in.

The second point, however, is more fundamental. This exhibit shows the draft sales as well as the package sales.

Hearing Examiner Hier: Combined?

Mr. Barton: Well, they are in separate columns and then combined. Now, so far as the complaint is concerned, I think it involves package sales in the package markets. My suggestion would be that I could object to it for the figures on the draft, certainly; on the package sales, sub-

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fect to the correction with the official figures which we will supply.

Hearing Examiner Hier: The draft beer prices are not involved in this complaint, are they?

Mr. Mayer: I think, sir, that the draft prices are pertinent to this proceeding, and if directed toward the package sales of Budweiser that is true. I would, however, ask that an order be issued which would apply to both sales of (67) Anheuser-Busch in whatever market it might be found, and in that instance I think it would be pertinent to be received to show the draft beer figures because as of June 21, 1954 the draft price of Budweiser was reduced in this area.

Hearing Examiner Hier: You are charging price discrimination against this respondent on both draft and packaged beers?

Mr. Mayer: Yes, sir.

Mr. Barton: If Your Honor please, the complaint does not quite read that way. It seems to involve the packaged market. It is true that it is dealing with total industry; the complaint talks of total beer, but when it gets down to the allegations with regard to price reduction, it is limited to the packaged beer market, and if you will note in paragraph 5, the reference is to packaged beer exclusively.

Hearing Examiner Hier: Yes, that is true.

Mr. Barton: And for that reason I think that figures with respect to draft beer do not throw any light on the problem we have here in this respect.

Hearing Examiner Hier: Of course, if he is not charging discrimination with reference to draft beer, it does not make any difference whether they go in or not; they cannot be used. But if he is charging discrimination with refer-

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ence to draft beer, that is a horse of another color, and I understand you are?

(68) Mr. Mayer: Yes, sir.

Hearing Examiner Hier: Well, this complaint is sufficiently broad, I suppose, to include draft beer, although as you say, Mr. Barton, paragraph 5 gives me the impression at any rate that it is confined to packaged beer.

Now, what do you want to do? Do you want to amend the complaint, or do you think it is necessary, or just what do you want to do?

Mr. Mayer: I do not believe it is necessary to amend it, if the Examiner please.

Hearing Examiner Hier: All right. You take the position that the complaint is broad enough to cover both, and I cannot say that it is not. It doesn't give me that impression—

Mr. Barton: It did not give me that impression.

Hearing Examiner Hier: It doesn't give me that impression now, but I can see where under the liberal rules of practice of an administrative agency where it could be included.

Very well, then. The record may show, Mrs. Wick, first, that counsel for the Government insists that this complaint attacks discrimination in the price of both draft and packaged beer.

Secondly, that Mr. Barton objects to that construction, and third, that I agree with Mr. Mayer that the (69) complaint is sufficiently broad under our rules of practice to sustain that construction.

Therefore, any objection to Commission's Exhibits 45 through 64 on draft beer necessarily must be overruled.

Did you offer these in evidence?

John Hallquist, Jr., for Commission—Direct

Mr. Mayer: I am going to offer them right now.

I offer Commission's Exhibits for identification 45 through 64 into evidence.

Hearing Examiner Hier: Outside of that objection, Mr. Barton, is there any other?

Mr. Barton: Well, only subject to correction, Your Honor. I just am not certain of the source of the material, and as I say we do have a tabulation based on the official sources which we will submit.

Hearing Examiner Hier: We want to get the correct figures in.

Mr. Mayer: Certainly, I perfectly agree with that.

Hearing Examiner Hier: All right. With that understanding that they are subject to correction if errors or inaccuracies be found, Commission's Exhibits 45 through 64 are admitted into evidence.

(The documents referred to, heretofore marked for identification Commission's Exhibits Nos. 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63 and 64, were received in evidence.)

(70) Mr. Mayer: May we go off the record a moment, sir?

Hearing Examiner Hier: Yes. Off the record.

(Discussion off the record.)

Hearing Examiner Hier: On the record.

All right. We will reconvene at 1:45.

Incidentally, if you have any witnesses coming tomorrow morning at 10 o'clock, tell them to come at 9. We are starting at 9.

Mr. Mayer: Are we on the record or off the record?

Hearing Examiner Hier: We are on the record.

John Hallquist, Jr., for Commission—Direct

Mr. Ingamells: Off the record.

Hearing Examiner Hier: Off the record.

(Discussion off the record.)

Hearing Examiner Hier: All right. We will recess now until 1:45 this afternoon.

(Whereupon, at 12:15 o'clock p. m., a recess was taken until 1:45 o'clock p. m., this same day.)

(71) AFTERNOON SESSION

1:45 p. m.

Hearing Examiner Hier: The hearing will be in order.

JOHN HALLQUIST, JR., resumed the witness stand and testified further as follows:

Direct Examination—Resumed

Mr. Mayer: Mr. Examiner, at this time I should like to have marked as Commission's Exhibit for identification 65-A, -B and -C a tabulation headed "Beer Sales in St. Louis and St. Louis County in Barrels," and this was submitted by the respondent.

Hearing Examiner Hier: Is it the respondent's beer sales?

Mr. Mayer: It covers the market areas.

(The document referred to was marked Commission's Exhibit 65-A, -B and -C, for identification.)

Mr. Mayer: I should like also to have marked as Commission's Exhibit for identification 66-A a graphical representation of the package beer sales in the City of St. Louis

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and St. Louis County for the years 1950 and 1954, and marked for identification as 66-B a graphical picture of the total beer sales in the City of St. Louis and St. Louis County for the years 1950 and 1954.

(72) Hearing Examiner Hier: You say '50 and '54?
Mr. Mayer: '50 through '54.

(The document referred to was marked Commission's Exhibit 66-A and -B for identification.)

Mr. Barton: No objection.

Mr. Mayer: I would like to offer at this time, Mr. Examiner, Commission's Exhibits for identification 65 A, -B and -C, and 66 A and -B, for the record.

Hearing Examiner Hier: Any objection?

Mr. Barton: No objection.

Hearing Examiner Hier: Admitted.

(The documents referred to, heretofore marked for identification Commission's Exhibits 65 A, -B and -C and 66 A and -B, were received in evidence.)

By Mr. Mayer:

Q. Now, Mr. Hallquist, eliminating for the purpose of this question the nationally advertised beers of Schlitz, Miller's, Pabst and Blatz, and also confining ourselves to the trade areas in which Budweiser distributes, or Anheuser-Busch distributes its beer products through a branch of the company, in which one or more of those particular trade areas was Budweiser sold at the same prices as the regional and local beers in those areas?

A. There are quite a few of those areas, Mr. Mayer, and I couldn't recite them offhand. Furthermore, I think we

John Hallquist, Jr., for Commission—Direct

would (73) have to know just when or what particular date.

Q. During the year 1954, sir.

A. You are talking about it at the retail level or the consumer level?

Q. Yes, sir, the sale to the retailer.

A. In fairly large areas of Texas, for example, regional beers will sell at the same price as Budweiser.

Q. If you will excuse me, those are the prices to the retailers as opposed to the Budweiser brand price to retailers.

A. I thought you were excluding branches.

Q. No, sir, I am talking only of branches.

A. Only of the branches?

Q. Yes, sir.

A. One place in point would be Sioux Falls, South Dakota.

Q. And what beer would that be, sir?

A. That would be Hamm's.

Chicago, Illinois, where Hamm's is also sold at practically the same price as Budweiser. Offhand I can't remember any other point without referring to whatever document we have.

Mr. Mayer: That is all, Mr. Hallquist.

(74) Hearing Examiner Hier: Before you go into cross-examination, I am not quite satisfied with that last question or answer. What I am interested in knowing, Mr. Hallquist, is this: Is this pattern of production in St. Louis and St. Louis County repeated in 1954 or superseded in 1954 in any other area of the United States with reference to local and regional beer sold?

The Witness: Not to the same extent as it was in St. Louis. I might—

John Hallquist, Jr., for Commission—Cross

Mr. Barton: If your Honor please, I think we will put in the facts on that, the particulars, during the course of the cross-examination.

Hearing Examiner Hier: All right.

Cross-examination by Mr. Barton:

Q. Mr. Hallquist, in the course of the examination there has been reference to so-called "premium" beers and "premium priced" beers. Now, could you tell us, are there any standards by which a beer can be classified as a premium beer?

A. No, there are no standards or regulations by which a beer can be judged a premium or a premium-priced beer.

As a matter of fact, the other breweries in St. Louis all use the term "premium" in connection with their products, as do a number of other beers that are sold in the St. Louis market and which are brought in from outside of St. Louis.

(75) For example, Tavern Ale labels itself as a premium beer. Tudor is a "premium" beer, 905—all of them, including the St. Louis beers use that terminology and it is widely used throughout the United States by a large number of brewers.

For example, in the East, Gunther terms their beer a premium beer. Even as far away as El Paso, Texas, a small brewer there sells his beer as premium beer.

Mr. Barton: Mark this for identification, please, as Respondent's Exhibit 1. That is samples of advertising of Falstaff Beer in the period August 1950 through November 1954.

(The document referred to was marked Respondent's Exhibit 1 for identification.)

John Hallquist, Jr., for Commission—Cross

By Mr. Barton:

Q. Now, I show you some samples of the advertising of Falstaff and ask you whether they have used the term "premium" in their advertising.

A. Yes, sir. Their usual terminology is "premium quality Falstaff." I am very familiar with it.

Mr. Barton: I offer the Exhibit I in evidence.

Mr. Mayer: Well, Mr. Examiner, I do not see any particular relevance in this effort to establish the fact that certain beers are advertised as premium quality beers. I am willing to stipulate to that and avoid what appears at the moment to be a rather voluminous entry into the record here. I am perfectly willing to stipulate there are approximately (76) 27 beers in this country that are advertised on the basis of premium quality.

Mr. Barton: If your Honor please—

Hearing Examiner Hier: I want first to get something straight. What you are talking about as "premium" is not quality but price.

Mr. Mayer: Absolutely.

Hearing Examiner Hier: And you want me to construe the advertising you put in the record as referring to price?

Mr. Barton: No, sir, the advertising of the respondent will in itself contain the words "premium priced," the advertising of the other beers will contain the words "premium quality," unless I am mistaken.

Hearing Examiner Hier: There is no issue in this case about quality?

Mr. Barton: Not as far as we are concerned.

Hearing Examiner Hier: Of the respondents or anybody else, is there?

Mr. Barton: Well, your Honor, I don't think that quite—well, the attorney for the Government here is obvi-

John Hallquist, Jr., for Commission—Cross

ously taking the position that "premium" has some meaning—he doesn't define what "premium" means and we think we are entitled to put in evidence all the light that can be thrown on that, and certainly it is relevant that all of our St. Louis competitors advertise that their beers are premium beers.

(77) Hearing Examiner Hier: He is willing to stipulate that.

I know nothing about the beer business except as a consumer. "Premium price" would mean nothing to me except that a given brewer through its efforts was able to get the consumer to pay something more than he pays for the general run of beers and still make a profit. That is the way it would strike me, "premium price." But I don't want the record loaded with all of this material, Mr. Barton, if Government counsel is willing, as he says, to stipulate that there are 27, or whatever the number is, beers who advertise premium quality or premium price.

Mr. Barton: If your Honor please, I think the effect of the stipulation is not quite as meaningful as the evidence in the record of the extent to which this is done and the long period over which it is done which these advertisements and pictures will show.

Hearing Examiner Hier: If you gentlemen want me, by consent, of course, to take official notice of the fact that the average consumer or the average person, such as I am, is constantly bombarded with advertising signs, bar signs, placards, window displays, and what have you, that this or that or the other beer is a premium quality or a premium beer, I will do so.

Mr. Mayer: I am perfectly satisfied with that, sir.

(78) Hearing Examiner Hier: Is that agreeable with you?

John Hallquist, Jr., for Commission—Cross

Mr. Barton: If your Honor please, the stipulation goes to this effect, as I understand it: the St. Louis brewers, along with the other national brewers, have for an extended period of years so advertised.

Am I correct?

Hearing Examiner Hier: Is that agreeable?

Mr. Mayer: I have no personal knowledge of the length of time at all, but that is agreeable with me, that it is being done presently, and I would assume that it has been done in the past.

Hearing Examiner Hier: I can say this for you, Mr. Mayer. When I was here 15 years ago bothering Mr. Ingamells on another matter that was being done.

Mr. Mayer: I will agree to the stipulation.

Hearing Examiner Hier: All right. It is so stipulated, then.

Mr. Mayer: Off the record.

Hearing Examiner Hier: Off the record.

(Off the record discussion.)

Hearing Examiner Hier: On the record.

Mr. Barton: We have collected samples of advertising of Hyde Park Beer for January through August of 1952, Griesediek Brothers beer for a period from April, 1951 through April, 1955, and samples of Stag Beer advertising which is (79) put out by Griesediek Western, now Canling, for the period from March, 1952 to March, 1955, all of which demonstrate that each of these companies have utilized the term "premium beer" in connection with their advertising for that period. And I offer to prove that by submission of this advertising, but in view of the stipulation entered into by Government counsel the offer is not pressed.

John Hallquist, Jr., for Commission—Cross

By Mr. Barton:

Q. You mentioned that the word "premium" is also used by a number of non-St. Louis breweries who sell beer in St. Louis.

A. Yes, sir.

Q. And I ask you whether these are the brewers to whom you were referring, first of all, a Tudor Beer.

A. That is correct.

Q. And they use the term "Premium Quality" on their can, do they not?

A. That is right.

Q. Who is Tudor Beer manufactured by, do you know?

A. I think it is the Atlantic Brewing Company in Chicago, I am not sure.

Q. The can says the Best Brewing Company.

A. The Best Brewing Company in Chicago.

Q. Here is a can of Sterling Pilsener Beer. It uses the term "Premium Quality", does it not?

(80) A. Yes, sir.

Q. Who is Sterling manufactured by, if you know?

A. I presume it is a Chicago beer, I am not sure, Mr. Barton.

Q. The can itself says "Brewed and canned by Sterling Breweries, Inc., Evansville, Indiana."

A. Yes, sir.

Q. And then there is a beer sold in St. Louis, is there not, called 9-0-5 Beer?

A. That is correct.

Q. And it is described on the label as a premium beer?

A. Premium beer.

Q. And who is the 9-0-5 made by?

A. According to the label 9-0-5 Brewing Company in Chicago.

John Hallquist, Jr., for Commission—Cross

Q. Who sells it in St. Louis?

A. The 9-0-5 Liquor Store.

Q. And also there is a beer called Alpine Brand, which is described as premium beer in red letters on the label. And that is manufactured by Better Fox Brewing Company of Chicago.

A. Yes.

Q. And that is sold in St. Louis?

A. That is also sold in St. Louis.

Q. Finally, there is a beer called Kold Bran, which is entitled, called "Eastern Premium Beer."

(S1) A. Yes.

Q. And that is manufactured by Schoenhofen Edelweiss Company of Chicago, Illinois.

A. Yes.

Mr. Barton: I would like for a document entitled "Recapitulation of Anheuser-Busch Sales, 1941 to 1954", to be marked as Respondent's Exhibit 2.

(The document referred to was marked Respondent's Exhibit 2 for identification.)

(S2) *By Mr. Barton:*

Q. I believe you referred this morning to the production of Anheuser-Busch in the several past years and the percentage of industry?

A. That is right.

Q. Is this a tabulation of Anheuser-Busch's sales since 1941 and the percentage of industry sales which Anheuser-Busch had in that period (indicating)?

A. That is correct.

Mr. Barton: I offer it in evidence.

Mr. Mayer: No objection.

John Hallenist, Jr., for Commission—Cross

Hearing Examiner Hier: Admitted.

(The document referred to, heretofore marked for identification Respondent's Exhibit No. 2, was received in evidence.)

Hearing Examiner Hier: That brings up the point, Mr. Mayer, to what year do you confine the complaint?

Mr. Mayer: Primarily to the year 1954, sir, the period in which the price reduction was made by Anheuser-Busch in this area.

Hearing Examiner Hier: Primarily?

Mr. Mayer: Well, I mean added to the background, for I can't think of any other reason for being outside that particular scope at the moment.

Hearing Examiner Hier: All right.

(S3) *By Mr. Barton:*

Q. Now, of course, despite the fact that you had a percentage of the industry of some 7 per cent, between 7 and 8 per cent, your position in the important markets of the country didn't come up to that percentage, did it, in those years '53 and '54?

A. That is very true. As I indicated in the six principal beer sales States that account for almost 50 per cent of the total sales in the country, Anheuser-Busch in only one of those exceeded the industry average, and that State, Illinois, in which we had approximately 10 per cent, we were not first in that State. In all the other areas we were not second nor first, and not even a good third or fourth in many instances.

Q. In other words, who in those areas like, as you say, the larger States, were in the important positions so far as sales rank were concerned?

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A. Generally speaking it would have been one of the large regional brewers. For example, in the area of Illinois and the area in which we are here, St. Louis and the surrounding territory, Falstaff, I would say generally, was the No. 1 brewer. In fact, according to their own reports they do their entire business, and I think, they ranked last year fifth in the industry. They do their business in just 36 per cent of the population of the United States, so that if they became national in scope, or if they acquired additional breweries, (84) they would finally wind up with sales of double that of Anheuser-Busch, because we sell our beer in 100 per cent of the population of the United States.

Q. In other words, Falstaff is selling in geographical areas covering 36 per cent of the population?

A. Yes, 36 per cent of the population.

Q. Whereas you are selling in geographical areas covering 100 per cent of the population?

A. 100 per cent of the population.

Q. Now, in that connection is there a record made of sales of packaged beer by the industry and by Anheuser-Busch in each State each month, which shows the relationship between the same month in the prior year for industry sales and for Anheuser-Busch sales?

A. Yes, sir, there is.

Mr. Barton: Mark this for identification as Respondent's Exhibit No. 3.

Hearing Examiner Hier: How many pages is that?

Mr. Barton: 29, your Honor. This is Anheuser-Busch industry packaged beer sales in barrels and per cent change from previous year for both industry and Anheuser-Busch by State by month.

John Hallquist, Jr., for Commission—Cross

(The document referred to was marked Respondent's Exhibit 3 for identification.)

Mr. Barton: From July 30, 1953, through June, 1955.

(85) *By Mr. Barton:*

Q. I show you Exhibit 3 for identification and ask you whether that is such a record as I have described?

A. It is. It is prepared in our market research department.

Mr. Barton: I offer this in evidence, Your Honor.

Mr. Mayer: I don't see any particular relevance to this document which is being offered, but for general information I see no objection.

Hearing Examiner Hier: If you have no objection it will be admitted in the record.

(The document referred to, heretofore marked for identification Respondent's Exhibit No. 3, was received in evidence.)

Mr. Barton: Your Honor, I have a chart which portrays the figures total industry and Anheuser-Busch.

Hearing Examiner Hier: In other words, that is a graphic representation of 3?

Mr. Barton: That is right, and I offer this in evidence.

Hearing Examiner Hier: I assume, since he had no objection to the other, he has no objection to that. Admitted in the record.

(The document referred to was marked Respondent's Exhibit No. 4 and received in evidence.)

John Hallquist, Jr., for Commission—Cross

(86) *By Mr. Barton:*

Q. I believe this morning there was a reference to regional breweries and general information requested as to size of various breweries. Now, have you had a chart prepared—a tabulation prepared of breweries that have sold more than a million barrels in 1954, which includes all of those?

A. That is correct.

Mr. Barton: I would like marked for identification a document entitled "Sales of leading breweries, Repeat through 1954," which includes all breweries whose report of 1954 sales were 1,000,000 barrels or more.

Hearing Examiner Hier: That will be Respondent's Exhibit 5-A and -B for identification.

(The document referred to was marked Respondent's Exhibit 5-A, -B and -C for identification.)

Mr. Barton: Your Honor, I offer Respondent's Exhibit 5-A and -B in evidence.

Hearing Examiner Hier: A, B and C, Mrs. Wick. Your objection, Mr. Mayer, if any.

Mr. Mayer: May I have just a moment, sir, to examine the document?

Hearing Examiner Hier: Off the record.

(Discussion off the record.)

Hearing Examiner Hier: Back on the record.

Mr. Mayer: I have no objection.

(87) Hearing Examiner Hier: Respondent's Exhibit 5-A, -B and -C is admitted in the record.

(The document referred to, heretofore marked for identification Respondent's Exhibit 5-A, B and -C, was received in evidence.)

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Re Mr. Barton:

Q. Now, looking at Exhibit 5-A, -B and -C, I would like for you to tell us where the various brewers who are named on here are located, and where in general they do business, where their beer is sold principally.

A. We have covered Anheuser-Busch insofar as its locations are concerned.

Schlitz is the next one on the page. They have breweries at Brooklyn, New York; Milwaukee, Wisconsin; and Los Angeles, California. They, like Anheuser-Busch, sell in all of the 48 States.

Pabst have breweries at Newark, New Jersey; Milwaukee, Wisconsin; Peoria, Illinois; and Los Angeles, California. Their Pabst beer is sold throughout the country and on the West Coast. They also sell a beer known as East Side out of their Los Angeles plant.

Ballantine is located in Newark, New Jersey. They sell their beer, I would say, nationally. They advertise nationally and they sell nationally. They sell both beer and ale, of course.

(88) Schaefer Brewing Company is located in Brooklyn, New York. They sell their beer throughout the entire New England States, the States of New York, New Jersey, Pennsylvania, and get down on the East Coast into Florida.

Q. In other words, they are what would be denominated as regional?

A. That is correct, sir.

Ruppert, located in Manhattan, New York, they sell in roughly the same trade area as the Schaefer Brewing Company does. They will occasionally ship to further points. They have been in Texas at times. They have been all through the South at various times.

John Hallquist, Jr., for Commission—Cross

Liebmann is located in Brooklyn, New York. The trade name of their beer is Rheingold. They sell in most of the New England States, New York State, New Jersey, into Pennsylvania and down the Coast into Florida.

Falstaff have six brands, and they are located at St. Louis; Fort Wayne, Indiana; New Orleans, Louisiana; Omaha, Nebraska, and San Jose, California. I think I have covered six locations.

Q. What is their general classification? Are they a local brewery or are they a regional brewery?

A. They are definitely a regional brewery, and I might say they are almost—they are a major brewery insofar as share of industry is concerned, and as they expand their distribution, as (89) I mentioned before, they advertise their beers as the Nation's Toast from Coast to Coast, and they do distribute their beer from the Atlantic Coast to the Pacific Coast. While their statement indicates that they sell heavily in the areas where 36 per cent of the population is located, they do have distribution all the way from Florida to the West Coast.

Q. Where is their heaviest distribution, would you say?

A. Well, their heaviest distribution is within a radius. I would say, of 300 miles of each one of their plants.

Q. In other words, they intensively cultivated the area adjacent to their six plant.

A. Very much so, sir, with tremendous advertising budgets and a concentration of their sales promotional efforts in that area.

The Miller Brewing Company are located in Milwaukee, Wisconsin, and do have national sales. However, depending upon your ability to get wholesalers, there may be many blank spots throughout the country.

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And that same condition is true of Blatz, who is also located in Milwaukee. Their volume has been dropping and while they advertise nationally they no longer sell their beer in 48 of the States.

The Hamm Brewing Company have one plant at Minneapolis, Minnesota, or St. Paul, Minnesota, and the other plant is located in California. They have a widespread distribution, (90) ranging specially heavy through the middle section of the country all the way from Canada to the Gulf of Mexico, and in such important sales centers as Chicago, Illinois, and of course, as I indicated before, they have a pattern of pricing to meet the locals in some areas and in other areas they are a premium priced beer, if there is such a term, except that on the West Coast it is my understanding that they sell at the same prices as all the other beers out there, and they advertise as Eastern beer at Western prices.

(91) Q. Now, if you will go to the second page, what is the situation with respect to Schlitz? Where are they located?

A. Schlitz is located in Philadelphia, and they sell their beer generally in the area I would say within 300 miles of their plant.

Q. How about Pfeiffer?

A. Pfeiffer is a Detroit brewery. They now have a second plant in Minneapolis, Minnesota. Their sales are in the, what we call the east-north central part of the country. They cover important markets like Cleveland and parts of Pennsylvania, Upper New York State.

Q. Where is Goebel located, and where do they sell principally?

A. Goebel has a plant in Detroit, and also a plant in California. Their area of distribution very closely paral-

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lets that of Pfeiffer in that they are in the east-north central part of the country, Michigan, Ohio, and of course on the West Coast.

Q. Now, where is Stroh located?

A. Stroh is a Detroit brewery and their area roughly coincides with that of the Goebel area.

Q. And Lucky Lager, what part of the country is it in?

A. Lucky Lager have two plants, or I think they have three now. They had two, one in San Francisco and one in Los Angeles. Their sales are along the Pacific Coast States and I would say (92) throughout—or they are extending it throughout the Rocky Mountain States.

Piel is a New Yorker who not so long ago also acquired one of the Trommer breweries in New York. Piel's are in the New York market and are very heavy in the metropolitan areas of Eastern Pennsylvania.

Q. I notice Carling is the next. What is the story of Carling?

A. Carling's have a plant at Cleveland, Ohio, and recently acquired the Griesedieck Western plant here in St. Louis. They also are just about ready to open a brand new brewery at Natic, Massachusetts, and have acquired land and have had enabling legislation passed in Georgia so that they can build a plant at Atlanta.

(93) Q. Was Carling related to a Canadian brewing company in any way?

A. Yes, that is quite—that company, they are just about the same as those of Anheuser-Busch, they have some, I believe, 14 operating breweries in Canada.

Q. I notice that Carling is growing. From 1943 to—

Mr. Mayer: Mr. Examiner, the figures speak for themselves, as far as what appears on here; and frankly, I

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do not remember any cross examination about the assets of any of these particular companies.

Mr. Barton: If your Honor please, I think the general subject has been gone over and we are entitled to develop it; it is a matter of industry position.

Hearing Examiner Hier: Well, the figures are in the exhibit.

Mr. Barton: All right.

By Mr. Barton:

Q. What is the situation with regard to Drewry; where are they located and where do they sell?

A. They are located in South Bend, Indiana; have acquired two breweries in the Chicago area and their sales run to the midwest part of this country, in Chicago and south into Tennessee and markets down there.

Now, the San Francisco Brewing Company, the trade name of that beer is Burgmeister and they sell throughout the Pacific Coast and are moving into the Mountain States of the country (94) likewise, have the same as Lucky Lager.

The next brewer listed here is Coors. Their plant is in Denver, Colorado and their area of distribution is constantly widening in all of the Mountain States. They are on the West Coast, they are in Texas, and they have gone as far east as Missouri.

Q. They are very definitely a regional brewer?

A. Very definitely so; very close to being national.

Q. Where is Jackson—is that Jackson Brewing Company?

A. Yes, sir. The trade name of that beer is Jax and is produced in New Orleans, Louisiana and is sold throughout the southern part of the United States.

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National is located in Baltimore, Maryland, and have wide distribution in the area around Baltimore and Washington and into Virginia.

Q. What is the trade name of National?

A. Well, they have National BO and National Premium. Pearl is another brewer listed here. They are in San Antonio, Texas and their sales are in the group of Western States—Texas, Arizona, Nevada and into that area there—into New Mexico.

Q. Well, now, looking at Exhibit 5, you will note that between 1952 and 1954 the sales of these regional—these brewers whom you have identified as regional brewers have increased in many cases, in most cases very materially, while the sales of those brewers whom you have identified as national, (95) including Anheuser-Busch, have decreased very severely. Now, what in your opinion are the factors which account for that trend and that change in those years?

Mr. Mayer: Mr. Examiner, I do not think that was covered on the direct examination, and I object to that question.

Mr. Barton: Your Honor, I am trying to explain what was raised in direct examination about the position of the company, and I do not think we can have it clear for the Examiner what the position of the company is unless this information is permitted to come in.

Mr. Mayer: Mr. Examiner, the exhibit speaks for itself—and I haven't any doubt but what the sales manager of every one of these breweries might have some reason to account for it, as well as the sales representative of Anheuser-Busch, that they went down for this reason or for any other reason.

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Mr. Barton: If your Honor please, also the direct examination was rather extended on this question of premium prices and public acceptance and so forth, and I think this information goes to that issue also, which was raised on direct examination.

Hearing Examiner Hier: Objection overruled. You may answer.

Mr. Barton: Will you read the question?

(The pending question was read by the reporter.)

The Witness: Well, there are a number of factors. (96) I think you almost have to go into a little history of the beer business.

Back in the early days of re-legalized beer, most beer was sold as draft beer and very little was packaged beer. At one time about 75 percent of the beer that was sold was draft beer. The remainder was packaged beer.

The industry because of its fifteen years of Prohibition had not made very many great advances in packaging and was slow to move to a different kind of a market. Then the war came along and there were many hardships on the brewing industry.

The government had grain orders which restricted the use of grain. There were restrictions on the use of bottle caps and generally speaking during that time the small brewers were permitted additional allocations on a hardship basis.

In addition to that, the armed forces required that the brewers set aside 15 percent of their production for the armed forces and because the product of the well-known national brands was in greater supply that was taken up. The brands of local and regional beers were not used and were therefore available for civilian consumption.

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Because of the cut-back in the over-all production of the beer industry the local and regional beers had a trouble to sell their products on the market and command good prices for them and it was a natural result that these breweries became strong, financially in better condition and that after the war (97) they were able to do improvements in their plants and develop better packaging methods and were able to advertise more heavily than they had previously.

Then in 1953, in the early spring of 1953, most of the production in Milwaukee, Wisconsin, was shut down for an extended period because of the strike and the national brands of beer became in very short supply.

(98) Many of the people who preferred to drink Budweiser at that time were unable to buy Budweiser because people who drank Schlitz or Miller or Pabst were unable to buy those brands.

The result was that the strike caused probably one of the greatest sampling campaigns for local and regional brands that could have ever occurred. And when beer became plentiful again after the strike was settled in August of 1953 many of the people who during the period when national brands, including Budweiser, were not available switched to local and regional brands, they just continued to drink local and regional brands. And as a direct result of this strike—which was for increased wages—Anheuser-Busch also had to sign contracts for increased wages for its brewers and bottlers. And in October, October 1, 1953, the national brands increased their prices slightly.

John Hallquist, Jr., for Commission—Cross

By Mr. Barton:

Q. Now, Mr. Hallquist, you have spoken of the growth that the regionals had. Was television any part of that, their advertising programs?

A. Very definitely television was a major factor in their growth, because for the first time they had the same media available to them that was available to the national brewers, with shows or programs that were comparable to what anyone else could put on. In other words, take a show such as (99) "Dragnet." It might be sponsored locally by one company. It can also be bought as a local program. And the national brewers, as I mentioned this morning, the reason we have the total sales that we do have is because they are thinly scattered over all 48 states of the country. We don't have the concentration in any one area such as many of your strong local and regional brewers have, and as a result we can't match their advertising expenditures market by market.

Q. I show you a document of advertising expenditures and ask you if this illustrates what you mean by that.

A. Yes, sir; it does. May I read it?

Q. Just indicate generally what it shows.

A. Well, this compilation indicates in four major cities of the country the advertising expenditures of Budweiser as compared to the regional or local beer in the area. I think that is right.

Mr. Barton: I ask that this be marked, please. It is entitled "Advertising Expenditures by Anheuser-Busch, Inc. and Some Other Brewers in Some Metropolitan Markets."

Hearing Examiner Hier: Six.

Mr. Barton: Six.

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(The document referred to was marked Respondent's Exhibit 6 for identification.)

Mr. Barton: I offer Exhibit 6 in evidence.

(100) Hearing Examiner Hier: Do you have any objection?

Mr. Mayer: Before making any objection to this exhibit, if your Honor please, may I ask the witness several questions concerning it?

Hearing Examiner Hier: Yes.

Mr. Mayer: Mr. Hallquist, what are the sources of the figures appearing on this exhibit?

The Witness: They are from media records, as I understand it, collected right at the source—in other words, from the newspapers and from the outdoor companies and from the radio and television companies in the particular markets.

Mr. Mayer: Was this acquired by Budweiser for use in this proceeding?

The Witness: Yes, sir.

Mr. Mayer: And why is it confined to only two or three companies here? Were the other figures unavailable for the other companies?

The Witness: I think just not to have too much in the record. I think we could get it from many other points if you wish it.

Mr. Mayer: Were these figures submitted voluntarily to Budweiser?

The Witness: Yes, sir.

Mr. Mayer: I object to the exhibit primarily, (101) Mr. Examiner, on the basis that it is irrelevant to this proceeding.

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Hearing Examiner Hier: Didn't you stress advertising this morning in your direct examination?

Mr. Mayer: Not the amount, nor the advertising by area, nor anything else other than the content of the advertising. And that was related only to the advertising of Anheuser-Busch.

Mr. Barton: If your Honor please, I don't think you can go into part of this and not go into all of it. It is all part of the same picture, and the whole picture has to be developed in order to properly understand it.

Hearing Examiner Hier: What I am wondering about, Mr. Barton, is this. Supposing Budweiser was unable to or did not for some other reason advertise in Cleveland as much as Pilsener. What about it?

Mr. Barton: We have in this case as a result of counsel raising the question a matter of public acceptance and position of this company and this beer nationally and in various markets. And I think that advertising expenditures certainly bear on those two issues.

Hearing Examiner Hier: It seems to me that public acceptance is indicated by sales rather than an effort to get sales.

Mr. Barton: As I recall it, during the direct (102) examination there was some indication that this advertising was designed to induce higher prices to be paid for the product. And it seems to me that the more information that can be shed on this problem the better it can be understood. The fact is that Anheuser-Busch' sales as shown by previous exhibits introduced here have been a small percentage in most of the markets of the country, a relatively small percentage. This index of advertising expenditure, actual expenditures by the competing brewers

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in these markets, go far to explain that. I don't want to burden the record with any number of these, but I do have two which bear on the problem, one, this general one now offered, and I have another one here for beer advertising in the Washington, D. C. area of the competing brands, which are merely illustrative examples of the general picture.

Hearing Examiner Hier: It seems to me obvious, gentlemen, that when you scatter your shot over the 4 states you necessarily have a thinner spread of shot than you did when you concentrated in three states, four states. I don't see anything peculiar about that.

But on the other hand, Mr. Barton, consumer acceptance is certainly indicated, not by advertising, but by sales. And the sales figures are in the record. The efforts to get business do not seem to me to have any part in this case as long as we have the results. And we do have the results.

I think the objection of irrelevance is well taken.

Mr. Barton: May I have the next exhibit marked for identification?

Hearing Examiner Hier: Respondent's Exhibit 6 is rejected on the objection of counsel in support of the complaint.

You may mark the next exhibit, Exhibit 7-A, B and C.

(The document referred to was marked Respondent's Exhibit 7-A, B and C for identification.)

Hearing Examiner Hier: And those are advertising expenses, Mr. Barton?

Mr. Barton: In Washington, D. C., by the respective competing brands.

John Hallquist, Jr., for Commission—Cross

I would like to ask for a reconsideration of this on the Washington, D. C. basis. That is the market referred to in the complaint.

Hearing Examiner Hier: That is true.

Mr. Barton: And since it is referred to specifically in the complaint it seems to me that we should be entitled to put into the record that the information perhaps irrelevant elsewhere is certainly relevant insofar as Washington, D. C. is concerned.

Hearing Examiner Hier: The locality doesn't have (104) anything to do with it. It is a question of putting in advertising, as I said before, when you have more definitive barometers, namely, sales. If you want to put in the sales there is some point in it.

Mr. Barton: The sales are in the record.

Hearing Examiner Hier: Yes. But I still don't see the pertinence of advertising expenditures at this stage of the case.

I told you six was rejected. Seven-A, B and C is offered for the same purpose, and the same objections apply, and there will be the same ruling.

(105) Q. I believe you were detailing the reasons for this drop off in Anheuser-Busch and the corresponding rise in the Regional brewers and you had gotten to the point of Milwaukee strike and the things that followed it.

A. Yes. Shortly after the Milwaukee strike was settled, the Milwaukee brands as well as Anheuser-Busch in St. Louis made a small increase in their prices. Now, increases in prices of course go through several changes before they reach the consumer. In some instances they are passed along; in other instances they are multiplied a few times. In the case of our prices to the wholesalers,

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they went up in the neighborhood of 50 cents. The wholesaler tagged on anywhere from 5 to another 15, and when they got to the retailer in many of the on-premise outlets throughout the country, the price went up by \$1.20. It had a very marked effect on the sales of the so-called national brands of beer, because in many areas the locals did not go up and the regionals did not go up. There was a pattern, but there was no reason to the pattern whatsoever, so that if there was a differential before, the differential widened at that time.

Q. And of course there were differentials created when none had existed before?

A. Where none had existed before, and wider differentials.

Q. Was there a difference in that connection between the on-premise and the off-premise outlets?

(106) A. Very considerably, because in the on-premise outlet—and that is where Anheuser-Busch over the years has had its biggest sale, the on-premise retailer does not generally mark up in units of less than 5 cents, so that while the price increased to the retailer himself, it might have been less than a penny per bottle, his price tended to rise five cents per bottle, and in some areas differentials were created as high as 10 cents per bottle over the bar.

Q. That is differentials between Anheuser-Busch and another brand?

A. And another brand.

Q. Now, how about the package stores?

A. The package stores of course generally mark up on a percentage basis and where the locals and regionals have gone up at the same time that the Milwaukee breweries and Anheuser-Busch did, the increase was approximately

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the same for both groups of brands. However, it again forced us a little farther up on the price scale, and many customers, instead of stopping their beer consumption would just move down a bracket and continue to buy at the price they formerly bought Budweiser and other brands for.

Q. Now, what would you say the most important result of this trend has been, the changeover, the consumers who have switched over. Have they come back, those who switched to the regional in the meantime, or have they come back by the end of 1954?

(107) A. No, sir.

Mr. Mayer: I object, Mr. Examiner. I think that is clearly outside the scope of the direct examination. It may be interesting, but it certainly is not related to the direct examination this morning.

Hearing Examiner Hier: I agree with him. Objection sustained. Strike the answer.

By Mr. Barton:

Q. When you talk about the on-premise market, what is it precisely that you mean?

A. The tavern, the bar, the restaurant, the hotel, the club, wherever beer is sold for consumption on the premises. In other words, where you would drink the beer at the place you purchased it.

Q. And the unit of sale there is generally what?

A. Generally single bottles or by the glass.

Q. And the off-premise market is grocery stores?

A. It would be grocery stores or liquor stores, drug stores, anyone who is licensed to sell for off-premises consumption, and sales there are usually in multiples of one.

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In other words, the package in six can or bottle containers, in 24 can or bottle containers, and usually the unit of purchase is above a single unit.

Q. And in your experience what is the trend in the industry toward distributionwise; is it toward the on-premise outlet or (108) toward the off-premise outlet?

A. It has been—

Mr. Mayer: I object, Mr. Examiner. I don't see any relevance to the conclusions of the witness on that point either to the direct examination.

Mr. Barton: It is going into this question of premium price and trade acceptance, consumer acceptance. I think the general question of this type is relevant.

Hearing Examiner Hier: You may answer. The objection is overruled.

The Witness: I would like to hear the question again.

Hearing Examiner Hier: How are your sales trends now, on-premise versus off-premise.

Mr. Barton: It is the industry, Your Honor.

The Witness: Well, I indicated part of that in my earlier comment, in that early in the days of legalized beer, there was sold 75 per cent draft beer and 25 per cent package beer. That trend has reversed itself until now better than 75, it is about 76 per cent of the beer is sold in packages and only some 24 per cent in draft beer, with the result—and also perhaps caused in great measure by the growth of super markets who are merchandisers on price, by the change in living habits of people. It started with television, which has caused a trend away from the on-premise outlet and a tremendous (109) increase in the off-premise outlet.

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By Mr. Barton:

Q. What effect does that have insofar as Anheuser-Busch is concerned?

A. Well, that is a price market. The off-premise market is a price market. First of all, the brands are marked up at relatively low percentages. Some of them would actually amaze you, and it isn't much you can do to develop sales in those outlets except for price and heavy advertising schedules in the local areas.

Q. Mr. Mayer has asked you questions concerning the existence of a regularly established differential between Budweiser and local and regional beers, and I believe you answered that there is not now and never has been any regularly established differential between Budweiser and regional and local beers, either at the wholesale or at the retail level, is that correct?

A. That is correct.

Q. And I believe you also stated that any differential that may have existed or set of differentials that may have existed are not uniform from market to market and change from time to time, and that they vary at the retail level.

A. That is very correct, sir.

Q. For example, isn't it true that a substantial number of outlets in the important markets of the country have sold (110) Budweiser and all beers at the same price over the bar?

A. In a great many places in the country.

Q. Now, what information is available to Anheuser-Busch with respect to this whole subject of prices charged by wholesalers to retailers and by retailers to consumers for Budweiser and for competing brands of beer? First of all, do you have a territorial report system?

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A. Yes. I was just going to describe that. Our field men are known as district managers and district salesmen and those men turn in three times a year—

Mr. Mayer: Mr. Examiner, I hate to interrupt the answer, but if I may I would like to object to this question. I don't see where the internal reporting system of Beuweiser or Anheuser-Busch is related to the direct examination. Perhaps if I knew what he was trying to show by the answer to his question it might become relevant.

Mr. Barton: Your Honor, if you will permit me to go a few more questions I think the relevance will be quite clear.

Mr. Mayer: Relevancy to the direct examination?

Mr. Barton: Yes, the direct examination.

Hearing Examiner Hier: He wants to know where he gets his information and how he gets it. Go ahead.

The Witness: Our district managers and district salesmen visit the markets of our wholesalers from one to, say, three times a year, and at the end of each regular scheduled (111) visit to the territory they make out a territorial report. In addition to other information the territorial report carries rather complete information concerning prices to retailers and prices to consumers, of various packages and in units. Our branch managers also send in such a report at the end of each quarter.

(112) Q. Now, I show you—first, let me have this marked for identification.

Mr. Barton: This is a document entitled "Territorial Report."

Hearing Examiner Hier: That will be Respondent's Exhibit 8.

(The document referred to was marked Respondent's Exhibit No. 8 for identification.)

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By Mr. Barton:

Q. Looking at Respondent's Exhibit 8 for identification, is there a place on the form for a report on prices at a level of the wholesaler to retailer, and retailer to consumer?

A. On the reverse side of the form we have the national brands listed and space for local and regional brands, and we get prices from the wholesaler to the retailer. Then we also have space provided for prices to consumers off-premise as well as on-premise.

Q. How often are those reports received by Anheuser-Busch from its district managers or district salesmen?

A. We will range anywhere from one to four per year per wholesaler location, and we get four reports a year from our own company locations.

Mr. Barton: I would like to have these next three documents marked for identification as Respondent's Exhibits 9-A through -E, 10-A through -D and 11-A and B.

(113) (The documents referred to were marked Respondent's Exhibits Nos. 9-A through -E; 10-A through -D, and 11-A and -B for identification.)

By Mr. Barton:

Q. Beside the territorial reports which have been received from time to time, what other sources of information are available in the files of Anheuser-Busch with respect to this matter?

A. In April of 1954 because of the very drastic drop-off in our sales which commenced in October of '53, at the direction of management I prepared and sent to the field

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through the sales manager a comprehensive survey to find out what prices were prior to the price increase and what happened after the price increase, both at the retail and consumer levels.

Mr. Barton: Will you mark this as the next exhibit for identification?

(The document referred to was marked Respondent's Exhibit No. 12 for identification.)

By Mr. Barton:

Q. I show you Respondent's Exhibit for identification 12, and ask you whether that is a copy of the survey report which you referred to (handing document to witness)?

A. It is the report, that is, the survey form that we'd mail to our field men for the instructions that are included therein.

(114) Q. How many markets did you have surveyed?

A. We actually completed, I think, either 76 or 78 markets.

Q. And those were located where?

A. In I would say every State of the United States. They were samples not picked for any particular reason.

Hearing Examiner Hier: Mr. Barton, may I ask what became of 9, 10 and 11?

Mr. Barton: 9, 10 and 11 were special summaries that were made of territorial reports. I have not offered them yet, but I plan to do so.

Hearing Examiner Hier: All right, let me have them, please.

Mr. Barton: Unfortunately, they have no description on the top of them (handing documents to the Examiner).

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By Mr. Barton:

Q. After Respondent's Exhibit 12 for identification was sent out, you got replies back from the field, I take it?

A. That is correct, sir.

Mr. Barton: Off the record.

Hearing Examiner Hier: Off the record.

(Discussion off the record.)

Hearing Examiner Hier: On the record.

Mr. Barton: Your Honor, I offer in evidence respondent's exhibit, the territorial report, No. 8.

Hearing Examiner Hier: You have no objection, do you?

(115) Mr. Mayer: The form? No, sir, I have no objection to that.

Hearing Examiner Hier: All right. Respondent's Exhibit No. 8 is admitted.

(The document referred to, heretofore marked for identification Respondent's Exhibit No. 8, was received in evidence.)

Mr. Barton: May we take a short recess, Your Honor?

Hearing Examiner Hier: Yes. Before we do, I want to know how long you will be running with this witness. I have to make a telephone call, but I will stay here as long as you wish.

Mr. Barton: At least another hour, Your Honor.

Hearing Examiner Hier: Another hour, all right.

And then you will have some redirect?

Mr. Mayer: Yes, sir.

Hearing Examiner Hier: We will take a short recess of five minutes.

(A short recess was taken.)

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(116) Hearing Examiner Hier: On the record.

Mr. Barton: I will offer Exhibit 12 in evidence.

Hearing Examiner Hier: Do you have any objection?

Mr. Mayer: May I have just a moment to look at it?

May I ask Mr. Hallquist a question about it?

Hearing Examiner Hier: Yes.

Mr. Mayer: Mr. Hallquist, referring to Respondent's Exhibit for identification 12, and on the fifth page thereof, would you describe for me the significance of the two columns of figures appearing, one under "percent, 2-month package," and the other one under "decrease sales, draft"?

The Witness: It is percent of decrease in two months' sales, package and draft, and that is how much our business was off for the corresponding period a year before. In other words, if this was January and February and this corresponded, we were 42 percent down for the same period a year before.

Mr. Mayer: Was that attached to and sent to each one of the areas which were to conduct this survey?

The Witness: For that particular region, yes sir. In other words, an individual form was sent to the district manager of Manchester, New Hampshire—he did not get this particular sheet.

Mr. Mayer: Who did get this particular sheet?

The Witness: The regional manager; regional sales manager; and of course the sales manager at St. Louis had it, (117) too—all of them for all of the eight regions.

Mr. Mayer: I have no objection.

Hearing Examiner Hier: Respondent's Exhibit 12 is admitted in evidence.

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(The document referred to, heretofore marked Respondent's Exhibit 12 for identification, was received in evidence.)

By Mr. Barton:

Q. Now, was a tabulation of the replies to that survey made to management?

A. That is right. That was under my direction.

Q. And is this a copy of that tabulation that was made?

A. That is right, Mr. Barton.

Mr. Barton: I ask this be marked with the next exhibit number.

(The document referred to was marked Respondent's Exhibit 13 for identification.)

Mr. Barton: At this time, your Honor, I offer in evidence Respondent's Exhibit 13.

Mr. Mayer: I have the same objection I had to the document he offered previously; it is not connected to the direct examination.

Hearing Examiner Hier: There is a difference between, Mr. Barton, the source of the information or how it was obtained, this information itself, and the information in 13, obviously, from my casual inspection of it. I think it is anticipatory and not part of the direct examination, not a proper part of the direct examination.

Mr. Barton: May I ask a question of the witness?

Hearing Examiner Hier: Yes.

By Mr. Barton:

Q. Doesn't this exhibit and the information contained in the survey show that there can't be, there is not and can't be any established differential—

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A. Very definitely so.

Q. —in the various markets between Budweiser and the other brands?

A. Especially because it shows there is a marked change in differential as concerns the period prior to October and the period after October, I mean it shows the fluctuation in differential that was created.

Hearing Examiner Hier: It still does not make it material, for the simple reason the gentleman has stated there is no such differential and there is nothing to contradict that in the record as yet and therefore corroboration is out of place.

Mr. Barton: Very good, your Honor.

Hearing Examiner Hier: And unless something indicates he is inaccurate in his statement I won't receive any corroboration. We will mark that as rejected temporarily.

(The document referred to, heretofore marked Respondent's Exhibit 13 for identification, was rejected temporarily.)

(119) Mr. Mayer: May I ask, even prior to the rejection, is that the only basis on which Mr. Barton intended to offer this document?

Hearing Examiner Hier: It is the only basis I heard. I do not know if it is the only basis or not.

By Mr. Barton:

Q. Now, what was the situation in October 1933 when Anheuser-Busch raised its prices slightly in the various parts of the country with respect to whether or not other brewers raised their prices?

Mr. Mayer: Objection. That was not covered in the direct examination.

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Hearing Examiner Hier: Well, it is already in the record, the fact that the Milwaukee breweries raised their prices slightly as the result of the strike of Anheuser-Busch; I have heard that twice.

Mr. Barton: Not this question as put in this instance—

Hearing Examiner Hier: Read back the question.

(The pending question was read by the reporter.)

Mr. Mayer: That is already in.

Hearing Examiner Hier: He testified the Milwaukee breweries did. You may have it if you want to duplicate it.

The Witness: Well, there were a great many changes in various parts of the country. For example, in New England, the New England brewers increased their prices.

(120) In New York City, in New York the New York brewers increased their prices, in New York, but did not do so in the southern part of New Jersey because in that area they competed with the Philadelphia brewers who did not raise their prices.

In Pittsburgh, the breweries there increased their prices in Pittsburgh itself and the surrounding communities. However, they did not raise their prices where they were in competition with the Philadelphia breweries or with the Ohio brewers who did not increase their prices.

That same general pattern prevailed—in Chicago, the local brewers increased their prices at the time that the national brands increased their prices. The Detroit brewers or the Michigan brewers, they did not increase their prices. Some of the regional breweries increased their prices and rescinded their price increases shortly after they were supposed to have gone into effect. In fact, some of them, I was told, rebated their customers the amount of the increases that they had effected.

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In California the brewers did go up in price. So, there was no established pattern any place in the country.

By Mr. Barton:

Q. Now, do you keep a record of the sales of Anheuser-Busch of Budweiser by wholesalers and by the Anheuser-Busch branches to retailers?

A. Yes, sir.

Q. On a monthly basis?

(121) A. Yes, sir, they report to us every month and they are accumulated.

Mr. Barton: I would like to have marked for identification this document entitled, "Wholesaler sales to retailers, package beer cases, 1952-1955."

(The document referred to was marked Respondent's Exhibit 14 for identification.)

By Mrs. Barton:

Q. Now, is Exhibit 14 for identification a tabulation of such sales by months of package beer in the period 1952 to 1955?

A. That is correct, Mr. Barton.

Mr. Barton: I offer Exhibit 14 in evidence.

Mr. Mayer: May I ask a question, please, of the witness?

Hearing Examiner Hier: Yes.

Mr. Mayer: Mr. Hallquist, are there included in this statistical tabulation cases as you have them computed down here, the sales of these 17 or 18 branches of Anheuser-Busch?

A. These are the entire sales by wholesalers and branches to the retail customers throughout the country.

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Mr. Mayer: What type of customers did they include, do they include all the customers of Anheuser-Busch for Budweiser?

The Witness: Yes, sir.

Mr. Mayer: I have no objection.

(122) Hearing Examiner Hier: Respondent's Exhibit 14 is admitted in the record.

(The document referred to, heretofore marked Respondent's Exhibit 14 for identification, was received in evidence.)

By Mr. Barton:

Q. Now, looking at Respondent's Exhibit 14, what was the situation with respect to Anheuser-Busch sales of Budweiser from wholesalers and branches to retailers in the latter months of 1953 as compared to the prior year?

Mr. Mayer: Objection. The exhibit will speak for itself.

Hearing Examiner Hier: This is prior—

Mr. Mayer: Yes, sir, 1952 to 1955, isn't it?

Mr. Barton: That is right.

Hearing Examiner Hier: Sustained.

Mr. Barton: Very good.

By Mr. Barton:

Q. Now, does Anheuser-Busch keep a record of the shipments of packaged beer to the trade by breweries by months?

A. Yes, sir, it does.

Q. And does it also keep a record and is there a budget prepared of sales volume?

A. Yes, sir, there is.

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Q. By months, by breweries?

(123) A. By months, yes, sir.

Mr. Barton: I ask this document be marked with the next exhibit number, entitled, "Package beer shipments compared to budget 1950-1955."

(The document referred to was marked Respondent's Exhibit 15-A and -B for identification.)

By Mr. Barton:

Q. Now, does Exhibit 15-A and -B show the package beer shipments by months from the three breweries—St. Louis, Newark and Los Angeles—both actual and budget for the period 1950 through 1955?

A. Yes, it does.

Mr. Barton: I offer it in evidence.

Mr. Mayer: For what purpose is this exhibit offered, if the Examiner please?

Mr. Barton: Your Honor, it is offered on the point alleged in the complaint and raised in the interrogation by counsel as to the position of Anheuser-Busch—"leading national brewer"—and the question of the continued public acceptance of the brand.

Hearing Examiner Hier: I would think, Mr. Barton, to put in any data—the shipments are included more or less in the sales, are they not?

Mr. Barton: That is true. There is one additional point here, your Honor, it shows the budget, what was expected, hoped and expected monthly, and the degree of correlation (124) between actual shipments and budgeted shipments over a period of years and the relationship that existed in 1954 and late 1953.

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Hearing Examiner Hier: I do not see how you can make anything out of that; that is, that the brewery expected April sales to be 91,000 and they actually only hit 71,000—

Mr. Barton: I think it bears on the point, your Honor.

Hearing Examiner Hier: I do not think so, Mr. Barton. It seems to me that actual sales for these months are already put in the record and that those actual sales already in the record are the safest and surest and sole criterion and that such things as expectations or inventory and over-age and under-age and so forth, are unreliable; and I will sustain the objection.

Mr. Barton: Very good, Your Honor.

By Mr. Barton:

Q. Now, Mr. Hallquist, you described, you testified about the abrupt sales reversal which Anheuser-Busch had in the late months of 1953 after October. Now, will you tell us what action was taken in the immediately following months in an effort to reverse that sales trend?

Mr. Mayer: I have objection, if your Honor pleases. The statistics will show the sales of Anheuser-Busch over the period of time he is talking about. Now, the reason for the (125) decline in sales of that time may well be part of his defense but that certainly was not part of the prima facie case nor the direct examination this morning.

Hearing Examiner Hier: That is not what he is asking. He is asking what action was taken.

Mr. Mayer: Well, it would apply to the action taken by the company, too. What difference does it make as to the action it was taking?

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Hearing Examiner Hier: You brought in part of the action this morning, did you not?

Mr. Mayer: Only in the sales figures, yes, sir—

Hearing Examiner Hier: That they advertised, they put out advertising for that purpose—well, I don't know that.

Mr. Mayer: Well, if your Honor pleases, does that make relevant any other action taken by the company twenty years prior to this?

Mr. Barton: I am not asking about twenty years prior to this.

Hearing Examiner Hier: He is asking about the last two months of the calendar year 1953. Is that right?

Mr. Barton: That is right.

Hearing Examiner Hier: You have shown part of 1953, he wants to show the whole. Objection overruled. You may answer.

The Witness: Well, for some time the subject of the (126) cause of our drop-off in sales was a subject of a lot of meetings and a lot of conversation and out of that emerged different thoughts and different ideas. One of them was, of course—we had done some things in the St. Louis market prior to the fall of 1953 to develop additional sales in the St. Louis market and we were interested, management was interested and had been interested for some time in doing a better sales job in the St. Louis market, and so that one of the things was to go after additional business in St. Louis.

We knew that or we felt, some of us felt that price was the answer and we considered rolling back our price increase that was made in October; but we weren't too sure of what results would come from that, because once

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an on premise retailer goes off, and of course that is where the bulk of our sales lay, he is reluctant when he goes up by \$1.20—and even though his cost increases, it may be 15, 20 or 25—or if you reduce your prices the same amount, he is mostly reluctant to lose that additional revenue he has been getting for some time, especially when it is on the lesser part of his sales volume.

(127) We also considered other things. We considered new products. And as a result of that we eventually came out with Busch Lager and Busch Bavarian, two additional full size beers.

We also began exploring very early, in the early part of 1954 different sized packages for Budweiser, in the hope that we might be able to accelerate or increase our consumer demand by bring out, say, smaller sized packages that might retail at a slightly less price.

By Mr. Barton:

Q. You mean the same price as the regional and local brands?

A. As regional and local beers. Of course, those things all take time. And as a matter of experiment we dropped the price in St. Louis in January, January 4, 1954, to find out before we went out nationwide on any kind of a cut-back just what the result would be.

It was obvious after a short while that that wasn't the answer. And by that time we weren't sure, very frankly, whether our beer had the taste qualities that people wanted or not. So in June we dropped our price the rest of the way in St. Louis to give our brand a free play with all the other brands in St. Louis.

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In the meantime there were price experiments being conducted in other parts of the country.

Q. For example, where?

(128) A. For example, in Memphis, the entire state of Ohio, where we rolled back our prices to almost the same as we had in 1953. Some of those experiments are still going on.

Q. Was there any particular reason that you picked pricing rather than new packages in Ohio?

A. Well, in Ohio you are not permitted to sell any other packages than those we presently have, in fact we can't even sell the seven-ounce over there. You see, this business is regulated differently in almost every state in the union. In some places some packages are legal, in other places there are no restrictions whatsoever on packaging. And there are restrictions in merchandising effort.

In St. Louis here we wanted to conduct a taste test similar to that which the local and regional breweries had during the period of the Milwaukee strike. We can't use many of the merchandising methods of other companies. In other words, there are restrictions against tied deals, you can't give two for the price of one, you can't have a one cent sale, you can't put some glasses with a case of beer as an inducement to buy. There are so many restrictions that we really do not have many ways of competing except for displaying our product and putting it up for sale. Price is the only thing that you can work with.

Q. In other words, the St. Louis price reduction was a part of a general program of experimentation in attempting (129) to reverse that sales trend?

A. Very definitely, to find out more about how we could do it.

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Q. When you reduced the price in January of 1954 I think you testified that you eliminated the 25-cent or the 50-cent differential that had existed between Budweiser and Falstaff, for example.

A. That is correct.

Q. And what was the effect in terms of sales in St. Louis by the reduction overall?

A. We did have some increase in sales. However, it wasn't much more percentagewise than we had been enjoying prior to that time. And of course we had other factors that entered the picture. We had the new pedal system of delivery which gave us closer attention and coverage of our customers, and we had additional advertising efforts, and we had a sales organization that had been split, so that we concentrated more heavily on the off-premise markets. So that all the factors, certainly some of them had some bearing on the small increase that we did get.

Q. As I understand it, the pedal system is to be distinguished from the so-called telephone order system?

A. That is right.

Q. And up until January of 1954 you had used the telephone order system while your competitors were using the pedal (130) system?

A. That is right. We didn't really get into full operation with our pedal system until the latter part of February.

Q. Of 1954?

A. Of 1954.

Q. Now, in connection with the St. Louis problem you again lowered your price in June of 1954?

A. That is correct.

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Q. How long did you hold the price, how long were you selling in St. Louis at that price, the same price Falstaff was?

A. Until March 1, 1955. And then we increased our prices.

Q. And how much did you increase it?

A. We increased our prices on the 24 12-ounce returnable carton by 45 cents.

Q. And what is the present differential between your price and Falstaff's price in St. Louis?

A. 30 cents per carton.

Q. In other words, Falstaff—

A. Falstaff and the other St. Louis beers increased their prices at about the same time, or announced increased prices, and increased their prices from \$2.35 to \$2.50.

Hearing Examiner Hier: You didn't go all the way back up to where you were in 1953, did you?

(131) The Witness: We did not, sir.

Hearing Examiner Hier: What are you charging now for 24 12-ounce retail regular?

The Witness: \$2.80.

Mr. Barton: That is as compared to \$2.93.

Hearing Examiner Hier: Yes.

Mr. Barton: I would like next to mark for identification the document entitled "New Packages and Busch Lager."

Hearing Examiner Hier: Sixteen.

(The document referred to was marked Respondent's Exhibit 16 for identification.)

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By Mr. Barton:

Q. I show you Exhibit 16 for identification and ask you what it is.

A. This is a record of the new packages that have been introduced in Busch Lager, the markets in the country to which they have been shipped, and the date, and the number of markets within each date.

Mr. Barton: I offer Exhibit 16 in evidence.

Mr. Mayer: May I inquire?

Mr. Hallquist, is this exhibit confined to Busch Lager?

The Witness: No, sir.

Mr. Mayer: It is not. And does this exhibit (132) show all the locations in which you have entered these various types of containers?

The Witness: It gives the number of locations within each state.

Mr. Barton: The date is on there.

Mr. Mayer: In other words, only one place in the District of Columbia, for instance, on the 10-ounce can?

The Witness: There is only one market there.

Mr. Mayer: One entire market?

The Witness: That is the entire market in the District of Columbia, yes.

Mr. Mayer: In other words, in other states, like in Illinois, you have 28 markets?

The Witness: Yes, at each wholesaler you might have two or three or half a dozen towns, so it doesn't mean a town it means a market according to our records.

Mr. Mayer: I object to this exhibit, Mr. Examiner, on the basis of relevancy. This exhibit is clearly irrelevant to any of the direct examination of this witness.

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Hearing Examiner Hier: I don't recall anything being gone into on direct examination about new brands, new packages.

Mr. Barton: I think specifically that is true, there was nothing gone into on new brands. But counsel did (133) go into what was done. One aspect after January 1, 1954, one aspect of what was done was the reduction of price in St. Louis to that of the competing brands, who had over 80 percent of the market for package beer.

Hearing Examiner Hier: That is true, but—

Mr. Barton: This is another aspect of the picture of what was done.

Hearing Examiner Hier: Yes, but you have developed from him that they did bring out the new brands of beer, that they did consider packaging and did try to repackage where they were able to. This exhibit, however, Mr. Barton, is the detail thereof, which it seems to me is appropriately part of your defense and not as a part of the case in chief, and I think it is being gone into anticipatorily. I am not going to receive it at this time. I will sustain the objection for the present. I am not saying the exhibit is incompetent when you get to your defense, though.

Mr. Barton: I would like the document entitled "Schedule of City Sales Department Employees" marked.

(The document referred to was marked Respondent's Exhibit 17 for identification.)

Mr. Barton: Your Honor, this morning during the examination of Mr. Hallquist this document was referred to by counsel in connection with questioning his employees. I offer the document in evidence. It gives the number of (134) employees during certain periods of the year.

Hearing Examiner Hier: Yes, I remember that.

You have no objection to this, do you?

John Hallquist, Jr., for Commission—Cross

Mr. Mayer: No, sir.

Hearing Examiner Hier: Seventeen is received.

(The document referred to, heretofore marked Respondent's Exhibit 17 for identification, was received in evidence.)

(135) Mr. Barton: Your Honor, I would like to have this marked with the next exhibit number.

Hearing Examiner Hier: 18.

(The document referred to was marked Respondent's Exhibit 18 for identification.)

Hearing Examiner Hier: What is it?

Mr. Barton: It is a compilation and tabulation of packaged beer sales by brewers in St. Louis and St. Louis County for the period from 1938 through July, 1955, which is the most recent figure.

Hearing Examiner Hier: Aren't the five of the years of that already in the record?

Mr. Barton: Not the last five years, Your Honor. As I recall it, the figures that counsel put in were only up through November and December, 1954, and in addition these figures are more detailed and more descriptive. They merely complement what is already in, but I think they bear on this particular problem of great urgency.

Hearing Examiner Hier: All right. Do you have any objection?

Mr. Mayer: No, I have no objection.

Hearing Examiner Hier: Mr. Mayer has no objection, so it is admitted in the record.

(The document referred to, heretofore marked for identification Respondent's Exhibit 18, was received in (136) evidence.)

John Hallquist, Jr., for Commission Cross

Mr. Mayer: May we go off the record a minute?

Hearing Examiner Hier: Yes. You may go off the record.

(Discussion off the record.)

Hearing Examiner Hier: On the record.

Mr. Barton: I would like the next exhibit marked for identification. It is entitled "Packaged beer sales in the City of St. Louis and St. Louis County," and it is a graph corresponding for the years 1950 through 1955, July, to the information submitted in a prior exhibit.

Hearing Examiner Hier: This is in graph form?

Mr. Barton: That is right. It extends the graph submitted by the Government to the present date (handing document to the Examiner).

Mr. Mayer: I am sorry. Did Mr. Barton offer that?

Mr. Barton: Yes, I did.

(The document referred to was marked Respondent's Exhibit 19 for identification.)

Mr. Mayer: I have no objection.

Hearing Examiner Hier: Admitted.

(The document referred to, heretofore marked for identification Respondent's Exhibit 19, was received in evidence.)

(137) Hearing Examiner Hier: There is one question about this, Mr. Barton.

Mr. Barton: Yes, sir.

Hearing Examiner Hier: You say packaged beer sales and yet you have it in barrels. I take it that what you have stated in the full context would be in barrels?

Mr. Barton: Yes, sir. The relationship is 13.77 statistical cases to the barrels.

John Hallquist, Jr., for Commission—Cross

By Mr. Barton:

Q. Mr. Hallquist, did you have prepared a projection based on sales by the four St. Louis brewers in 1952 and '53?

A. I have.

Q. Of the sales of packaged beer which they would have had in St. Louis had there been no reduction by Anheuser-Busch?

A. That is correct.

Q. Now, is this a copy of that projection (handing document to witness)?

A. Yes, it is.

Mr. Barton: I ask that the exhibit be marked.

Hearing Examiner Hier: 20.

(The document referred to was marked Respondent's Exhibit 20 for identification.)

Hearing Examiner Hier: How many brewers are there there?

Mr. Barton: Four, Your Honor, the four St. Louis (138) brewers.

I offer Exhibit 20 in evidence. I might say, your Honor, that it shows that it is based on the sale of total in St. Louis and St. Louis County, of each of the four brewers and it shows the projection based on '52 through '53 sales, had there been no price reduction. That is, '52 and '53, and it shows actual share of market also.

Hearing Examiner Hier: Actual share of market?

Mr. Barton: That is right. It is merely an addition of the projection. Actually the share of market is in the record in numbers. It is not in graph form. These are

John Hallquist, Jr., for Commission—Cross

the graphs which have been introduced, which are not shares of market, but are total packaged beer sales.

Hearing Examiner Hier: I take it the projection is represented by the straight unbending or unchanged lines?

Mr. Barton: That is right, Your Honor.

Mr. Mayer: What was the purpose, Mr. Barton, for the introduction of this exhibit, please?

Mr. Barton: The purpose is to show a comparison of the actual sales in the St. Louis area, what the area is, with what the projected sales would have been had there been no reduction by Anheuser-Busch. It is merely a basis of comparison.

Mr. Mayer: I don't see the relevancy of it, of the document, myself.

(139) Mr. Barton: Your Honor please, counsel has put in the record on direct actual sales, shares of market, et cetera. I think we are on cross entitled to show the relevance, show the importance of that in terms of the past history of these other companies over a period of two years.

Hearing Examiner Hier: That may be all true, but I don't think you are entitled on cross-examination to put in speculation, which is, after all, what the projection is.

Mr. Barton: It is speculation to the extent that it is based on actual figures for two years.

Hearing Examiner Hier: I know, but it is his prediction of what would occur if something else had not occurred.

Mr. Barton: I suggest that that goes to the weight rather than the admissibility of it. I think that goes to the weight.

John Hallquist, Jr., for Commission—Cross

Hearing Examiner Hier: I didn't say this exhibit is not admissible, but I am very doubtful as to whether it is admissible at this time. I don't think it is. You are necessarily offering speculation from one of your officials and on its face it is defensive, and your defenses here are affirmative, all three of them. They are affirmative defenses. There is always a negative defense.

Mr. Barton: So far as the injury to competition, it is certainly a part of the Government's case, and I suggest (140) that this goes to that strongly, and I agree the weight of it is open to consideration by the Examiner.

Hearing Examiner Hier: I don't think you can put speculation in on cross-examination in this way. You may be able to do it on the basis of judgment and past experience when you get to your side of the case, but not now. I think the exhibit is premature and consequently, Mrs. Wick, Respondent's Exhibit 20 is rejected as premature.

(The document referred to, heretofore marked for identification Respondent's Exhibit 20, was rejected.)

By Mr. Barton:

Q. Have you had prepared a tabulation of the total company barrels of each of the St. Louis breweries over the past ten years, 1944 through '54, which also gives St. Louis packaged sales of each of those breweries and the percentage of the St. Louis total?

A. Yes, sir, I have had.

Q. That is, for the three breweries, Falstaff, Griesedieck Brothers and Griesedieck Western?

A. That has been done, sir.

John Hallquist, Jr., for Commission—Cross

Q. Is this a copy of that tabulation (handing document to witness)?

Hearing Examiner Hier: For what years, Mr. Barton?
Mr. Barton: '44 through '54, Your Honor.

A. That is correct.

(141) Mr. Barton: Please mark this.

Hearing Examiner Hier: Make that 21-A, -B and -C.

(The document referred to was marked Respondent's Exhibit 21-A, -B and -C, for identification.)

Mr. Barton: I offer in evidence Exhibit 21-A, -B, and -C.

(142) Hearing Examiner Hier: Have you found anything subversive in this exhibit?

Mr. Mayer: No, sir, I have no objection.

Hearing Examiner Hier: All right. It is admitted in the record.

(The document referred to, heretofore marked for identification Respondent's Exhibit No. 21-A, -B and -C, was received in evidence.)

Mr. Barton: I would like this document entitled "St. Louis and St. Louis County Draft Beer Sales, 1953, for Griesedieck Brothers and Griesedieck Western, and also 1954, marked for identification.

Hearing Examiner Hier: Exhibit 22-A and -B.

(The document referred to was marked Respondent's Exhibit No. 22-A and -B for identification.)

By Mr. Barton:

Q. Does Falstaff sell any draft beer in St. Louis?

A. Yes, sir.

John Hallquist, Jr., for Commission—Cross

Q. How about—I show you Exhibit 22-A and ask you what it represents, 22-A and -B.

A. These are tables showing draft beer sales in St. Louis and St. Louis County by Griesedieck Brothers and Griesedieck Western during the years 1953 and 1954, their total barrelage sales or share of the total industry sales in St. Louis and the percent of change from the previous year, and it also has the industry totals over on the right-hand side.

(143) Mr. Barton: I offer Respondent's Exhibit 22-A and -B in evidence (document handed to the Examiner).

Mr. Mayer: We have no objection, Mr. Examiner, to this document.

Hearing Examiner Hier: 22-A and -B are admitted.

(The documents referred to, heretofore marked for identification Respondent's Exhibit 22-A and -B, were received in evidence.)

Hearing Examiner Hier: Mr. Barton?

Mr. Barton: Yes, Your Honor.

Hearing Examiner Hier: I notice a minus sign in front of the per cent change per year. That does not mean that they went down 18 per cent, or anything like that, does it? There is just a dash there?

Mr. Barton: That means that they were that much down that month compared to the prior year. "P.R." is prior year.

Hearing Examiner Hier: All right.

Mr. Barton: I would like a document entitled "Budweiser 10-ounce and Busch Lager in St. Louis and St. Louis County compared to total Anheuser-Busch package beer for the six months January '55 through July '55," marked for identification.

John Hallquist, Jr., for Commission—Cross

(The document referred to was marked Respondent's Exhibit No. 23 for identification.)

(144) *By Mr. Barton:*

Q. I show you Exhibit 23 for identification, and ask you what it represents (handing document to witness.)

A. These are the sales of Budweiser 10-ounce and Busch Lager 12-ounce sales in the St. Louis and St. Louis County area as compared to the total Anheuser-Busch package beer sales or Budweiser package beer sales in the same area.

Mr. Barton: I offer Exhibit 23 into evidence.

(Document handed to the Examiner.)

Mr. Mayer: Mr. Examiner, I think that this document is obviously irrelevant. I don't think there was a mention made in the direct examination of 10-ounce packages or Busch Lager.

Hearing Examiner Hier: I think it is premature, Mr. Barton, and is rejected on that point.

Mr. Barton: Very good, Your Honor.

(The document heretofore marked Respondent's Exhibit No. 23 for identification was rejected.)

By Mr. Barton:

Q. Mr. Hallquist, referring to Commission's Exhibit 29-A which was put into evidence this morning, I note that on page 2—I guess it is 29-B as it was put into evidence—there is a paragraph in which—this was a letter from you to Mr. Barsi dated June 22, 1954—there is a paragraph in which you state:

John Hallquist, Jr., for Commission—Cross

(145) "There is also a problem of getting retailers to devote adequate cooling facilities for Budweiser and to reduce the cooling facilities now given to other brands. All of the salesmen have been thoroughly briefed both on trying to trade up orders to obtain adequate cooling space and to arrange for any number of deliveries per week that are necessary to keep retailers supplied."

Would you please explain what you are referring to in that paragraph by the problem?

A. Well, the basic problem is that because of the lesser sales of Budweiser in these outlets, the retailers have devoted only a certain amount of bin space, cooler space, for our particular brand. When their volume increased as substantially as it did, they would only have Budweiser on sale for a few hours and then while they were cooling an additional supply, consumers would have to do without, and one of the major problems was trying to get the retailer to realize that Budweiser should have in capacity at least equal to any other brand in the market.

Q. Now, you also state in this letter that:

"You no doubt have heard already that Schenberg Markets advertise Budweiser at \$2.29 per carton, which is 6 cents under our cost to the retailer,"—

A. That is correct.

(146) —"and that a neighboring outlet had advertised this same price on Tuesday evening. Steps had been taken to have those prices cease by the time the time limit of Wednesday evening expires."

John Hallquist, Jr., for Commission—Cross

What were you referring to in that paragraph?

A. Well, I referred to the steps being taken, and that is simply this, that we have no control over the merchandise after we sell it. However, we can go down to the retailer and appeal to his sense of loyalty, his fairness to us, so that it would not be sold under cost. In other words, we don't like it because it just foments a lot of trouble with the other retail dealers.

Now, this time limit, if memory serves me correctly, the retailer had advertised that his prices were good Monday and Tuesday, or something to that effect, so that he couldn't go back on his advertisement until the time limit had expired. However, at that time he agreed that he would at least sell at or above cost.

Mr. Barton: That is all.

Mr. Mayer: It will take us some time, if the Examiner pleases. I would like to go through all these documents and check through them before I have any redirect.

Hearing Examiner Hier: How much time?

Mr. Mayer: Well, it will take me at least ten or fifteen minutes, I would say, to even start to do that.

(147) Hearing Examiner Hier: I am going to adjourn at ten minutes to five. Would you have time to do that?

Mr. Mayer: I would not have time to complete it, no, sir. I would like to have it go over until the first thing in the morning.

Hearing Examiner Hier: Is it convenient for you to be back here at 9 o'clock?

The Witness: Yes, sir.

Hearing Examiner Hier: All right, then.

John Hallquist, Jr., for Commissioner-Cross

Reluctantly we will adjourn until 9:00 o'clock tomorrow morning.

(Whereupon, at 4:25 o'clock p. m., an adjournment was taken, to reconvene at 9:00 o'clock a. m., Wednesday, September 14, 1955.)

(148) Wednesday, September 14, 1955.

Met, pursuant to adjournment, at 9:00 a. m.

Before: Frank Hier, Hearing Examiner.

Appearances as before.

(149) PROCEEDINGS

Hearing Examiner Hier: Come to order.

Mr. Barton: Your Honor please, I have one further question I would like to ask the witness.

Hearing Examiner Hier: Go ahead.

JOHN HALLQUIST, JR., resumed the witness stand and testified further as follows:

Cross-examination—Resumed by Mr. Barton:

Q. Mr. Hallquist, has there ever been a time in your experience in St. Louis when Budweiser draft beer was sold at any different price than Stag, Falstaff and the other St. Louis beers?

A. Not to my knowledge. The standard price in St. Louis for many years has been 10 cents per glass. Over

John Hallquist, Jr., for Commission Cross

the years glass sizes have been reduced. However, the retailers generally keep the same glass size.

Mr. Barton: That is all.

Hearing Examiner Hier: That is the consumer price. What about the barrel or half barrel price?

The Witness: There has been a differential which has varied on draft beer. Now, going back—I can only go back within the last five or six years on that.

By Mr. Barton:

(150) Q. What was the differential prior to June 1954?

A. It was 48 cents.

Q. What was the price of a half barrel of Budweiser?

A. \$12.48.

Q. And the price of the competing draft beer?

A. I am not real sure about that. I would have to refresh my memory, Mr. Barton, whether it was—I think it was \$12.48 and \$12.

Q. And so the price of Bud was lowered?

A. Was lowered from \$12.48 to \$12.

Q. Which was the same price as competing beers?

A. The same price as competing beers.

Q. But that didn't make any change in the price over the bar?

A. None whatsoever.

Mr. Barton: That is all.

Hearing Examiner Hier: Redirect examination, Mr. Mayer.

John Hallquist, Jr., for Commission - Redirect

Redirect Examination by Mr. Mauer:

Q. Mr. Hallquist, directing your attention to Respondent's Exhibit 3, sir, and starting on page 1 of that exhibit, which shows a listing by States, would you tell me, sir, the source of the figures which appear in that column? (handing document to witness.)

(151) Now, Mr. Hallquist, what are the source or sources of the figures which you got in Column 1 opposite the names of the States on Respondent's Exhibit 3?

A. Well, this exhibit was prepared by our market research department. The information on industry sales, to the best of my knowledge, is gathered from various sources. For example, in most of the States, because of the excise taxes that are imposed, it is possible to get information from the States as to the total sales of all beers and also the total sales, and in many cases of individual brands.

Q. Is that, in fact, the way those figures were gotten?

A. To the best of my knowledge, sir.

Q. Now, sir, I notice in the exhibit, at page 11 of Respondent's Exhibit 3, bearing the note "E—Estimated package draft breakdown" appearing opposite several States on that tabulation. Would you tell us what that means, sir?

A. Well, this was prepared by our market research department. The source of much of this material was United States Brewers Foundation. Now, some of it undoubtedly had to be estimated from sources that I don't know a thing about, and I think those are marked in such a manner, aren't they? Those with an "E" are probably estimated.

Q. They are estimated by the Busch Company, is that right, sir?

A. I presume so.

John Hallquist, Jr., for Commission Redempt

(152) Q. And you do not know the basis on which they are estimated, is that correct?

A. No, sir. This was prepared by our market research department.

Q. Directing your attention, Mr. Hallquist, to Respondent's Exhibit 5-A, -B and -C, and particularly to the not appearing on the first page on Exhibit 5-A, I notice the marking "V" appearing over several of the columns and the note "Verified by company." Now, which company verified those figures in those columns?

A. Anheuser-Busch.

Q. They were not verified by the company—

A. Directly from the company above which the "V" appears. In other words, it is verified by Pabst, Schlitz, Schaefer, Ruppert, directly in correspondence to Anheuser-Busch.

(153) Q. Now, sir, directing your attention to Respondent's Exhibit 18 and in particular to the column under the heading of "Anheuser-Busch" headed "Percentage change previous year," would you tell me how the figures appearing in that column were arrived at?

A. Well, that would be the difference between one year and the other year divided by the previous year, the figure for the previous year.

For example—and I am not a statistician—but in January if the figure was 274,000 in 1955 and if in 1954 the January figure was 107,000 the difference between the two divided by the January 1954 figure would result in the plus 155 percent.

Q. That would be the difference in the statistical cases as you have them before you today?

A. That is correct.

John Hallquist, Jr., for Commission Redirect

Q. And the fact it appears next to the column, the share column, it is not related to the market share column?

A. No, sir, it is not.

Q. Now, sir, would you tell me what you mean in this exhibit by "statistical cases"?

A. A statistical case—in order to bring the various types of packages we have to a common denominator we would convert our 12 32-ounce case to a 24 12-ounce equivalent; we would convert a 48 12-ounce 8.6 pack to a 12 carton equivalent, to a 24 12-ounce equivalent, in order that we arrive at a figure (154) which is a true figure and not distorted.

Q. And that was done, I take it, in relation to all the companies appearing thereon?

A. That is correct.

Q. Mr. Hallquist, I believe you stated yesterday that the overall beer market was approximately 76 percent package and 24 percent draft sales throughout the nation. Is that correct?

A. That is approximately correct.

Q. In the figure of draft sales were you including the consumption of package goods on premises?

A. No, sir. I am talking about beer which is packaged either in barrels and half-barrels and quarter-barrels as distinguished from beer which is put into bottles and cans.

Q. In the 76 percent figure of packages it is a fact, isn't it, that many of those would be sold in what would be termed an on-premise sale outlet?

A. That is true, sir.

Q. Now, Mr. Hallquist, did any official of Anheuser-Busch ever intimate to you that there was a different reason for the price reduction in St. Louis and the St. Louis

John Hallquist, Jr., for Commission Redirect

County area other than a systematic plan to test of to deserve your market share?

A. Except that we would like to have more business in the St. Louis and St. Louis County area.

Mr. Mayer: That is all I have, Mr. Examiner.

Mr. Barton: That is all.

(155) Hearing Examiner Hier: I have a few questions, Mr. Hallquist. I am not satisfied with this "premium" business. In this advertisement, Commission Exhibit 35, it says, "You can now enjoy Budweiser at ordinary beer prices. It still sells at premium prices around the world."

Now, I cannot line that up with what you testified yesterday, that there is no such thing as a premium price. And I don't suppose you wrote this, but your company did?

The Witness: That is right—the advertising agency.

Hearing Examiner Hier: Do you have any explanation?

The Witness: As to why it is in the ad?

Hearing Examiner Hier: Yes.

The Witness: No, sir, except, as I did indicate yesterday, there are markets in the United States where Budweiser would be sold at slightly higher prices than the other beers. It was good, therefore, in my opinion, not to disturb the marketing position in those areas.

It was also an added sales stimulus insofar as the St. Louis market was concerned to indicate that people were getting a bargain by not having to pay a premium price. Now, in St. Louis, I presume you would say that there had previously been a premium price.

Hearing Examiner Hier: Has there ever been a time in your experience with any beer in the United States where you could not buy as a customer, as a consumer, a

John Hallquist, Jr., for Commission: Redirect

cheaper beer than Budweiser was selling for in that particular city?

(156) The Witness: In that particular city you might find some outlets where you could and there would be other outlets where all the beer would be the same price.

For example, in Philadelphia, if I am not mistaken, before the price rise in 1953 there were more than 1,000 outlets which sold Budweiser and all other beers at the same price.

I can take you out into the State of Kansas today where you will find all beers at the same price over the bar regardless of what the brand name is. That is true in Iowa and that is true in parts of Texas. I don't think there is a part of the country exempt from that. Chicago has one price over the bar in a countless number of outlets—and I am not talking about, particularly, high-priced outlets. For example, when you talk about the 1,000 outlets in Philadelphia, you got a pretty wide share of the market.

Hearing Examiner Hier: What you say is more true with on-premise sale than off-premise?

The Witness: That is true and in the off-premise outlets the variations, market by market and outlet by outlet within a market are tremendous. There is no possible way of generalizing and saying that there is this much differential or that much differential even within one city—it just doesn't occur.

(157) Hearing Examiner Hier: Do you have anything more?

Mr. Mayer: That is all.

Hearing Examiner Hier: Thank you, Mr. Hallquist.
(Witness excused.)

Charles A. Ens, Jr., for Commission—Direct

Hearing Examiner Hier: Who is next?

Mr. Mayer: May we go off the record a minute?

Hearing Examiner Hier: Yes.

(Discussion off the record.)

Hearing Examiner Hier: On the record.

We will have a 15-minute break.

(Recess taken.)

Hearing Examiner Hier: On the record.

Mr. Mayer: Mr. Examiner, at this time we would like to call Mr. Ens.

CHARLES A. ENS, JR. was thereupon called as a witness for the Commission and, having been first duly sworn, testified as follows:

Direct examination

Hearing Examiner Hier: Give the reporter your name and address.

The Witness: Charles A. Ens, Jr., 1920 Shenandoah—that is the business address—St. Louis 4.

By Mr. Mayer:

Q. Are you here today, Mr. Ens, in response to a subpoena?

(158) A. I am.

Q. And with what company are you associated, sir?

A. Griesedieck Brothers Brewery Company.

Q. And in what capacity are you associated with that company?

A. City sales manager.

Charles A. Eus, Jr., for Commission—Direct

Q. How long have you been associated with the company in that capacity?

A. I have been associated seven years with the company, but the first six and a half years I was in the capacity of the package sales, just in the last six months I took over the complete on premise and off-premise.

Q. And were those package sales confined to St. Louis and the St. Louis County area?

A. That is right.

Q. And what type of business is the Griesedieck Brothers Company engaged in?

A. The distribution of GB Beer, solely the one brand.

Q. Is that the only brand name under which the beer products of Griesedieck Brothers is merchandised?

A. That is right.

Q. Mr. Eus, approximately what share of the company's overall business is done in the St. Louis area?

A. You have reference to this year, or on the average of the last few years?

(159) Q. The last few years.

A. Approximately 23, 24 percent.

Q. In what areas of the United States does the Griesedieck Brothers Company offer its beer for sale?

A. We go to eleven states—I will have to refer to some notes on that, because I am not familiar with all the states, its overall production—we go to Alabama, Arkansas, California, Illinois, Indiana, Iowa, Kansas, Kentucky, Mississippi, Missouri, Oklahoma, Tennessee and Texas.

Q. And with relation to the St. Louis area how are your beer products sold and distributed here?

A. It is a direct operation of the brewery, there is no distributorship. Is that what you have reference to?

Charles A. Ens, Jr., for Commission—Direct

Q. Yes, sir.

A. We have a direct operation of the brewery, maintaining our own delivery service both in St. Louis and St. Louis County.

Q. Now, sir, in relationship to the position you hold with the Griesedieck Brothers Company, what are your duties as associated with that position?

A. Well, it constitutes two or three phases. First you have your particular sales force with which you are in contact; secondly, you are out calling on trade, finding the different conditions of the field, basically to get yourself good locations for the sale of the product, merchandising (160) and displaying, seeing that you can get those points of advantage in each outlet.

Q. How many salesmen do you have under your direct supervision?

A. Twenty.

Q. And do these salesmen report regularly to you?

A. I contact them each day. They don't report in every day personally, they are in once or twice a week. But I talk to them every morning.

Q. By phone, I take it.

A. That is right.

Q. As sales manager of the Griesedieck Brothers Company are you familiar with the market conditions at the retail level in the St. Louis Area?

A. I am.

Q. And is it part of your job to be acquainted with the conditions affecting the retail market?

A. Yes, sir.

Q. Now, in your experience with Griesedieck Brothers Company is there ordinarily a difference in price to the retailer between Budweiser and your product?

Charles A. Ens, Jr., for Commission—Direct

A. There has always been a spread, to my knowledge, in the cost to the dealer.

Q. And is Budweiser the produce which commands the higher price?

(161) A. Yes, sir.

Q. Is this generally true with relation to all the market areas in which the Griesedieck Brothers products and Budweiser are in competition?

A. To the best of my knowledge it is. I am not in the out-state business, but to the best of my knowledge there has always been that differential.

Q. And is this true generally with relation to the prices paid by the consumer?

A. I think that in most cases that has been passed on to the consumer where the consumer was paying a larger price for the other particular brand of beer.

Q. Now, sir, are you familiar with the reduction in prices of Anheuser-Busch in the St. Louis market in January and in June of 1954?

A. There was a change in January and June.

Q. And as a result of the June reduction did the price of Budweiser become the same for like packages as the packages offered by your company?

A. Yes, it did.

Q. And did the price of Budweiser draft beer become the same as the draft beer price of Griesedieck Brothers?

A. That is right.

(162) Q. Now, sir, inviting your attention to Respondent's Exhibit 18, if you will look at that, please, sir, and in particular to the months succeeding June of 1954, and in relation to the sales of your company as they are shown

Charles A. Ens, Jr., for Commission—Direct

thereon, to what do you attribute the sharp decrease in sales of your product?

A. You have reference to June of '54?

Q. Succeeding June of '54, the months succeeding June of '54.

A. I would say a big factor is the drop in price with the Anheuser-Busch beer to ours at the same level, not only ours, but the other beers.

Q. Now, sir, what is the basis for that statement?

A. Well, in contacting the particular trade outlets in the St. Louis market we were naturally quite perturbed and quite interested in seeing what this was doing and the main story passed on to us was that people did change their brand, going to the other beer which was selling for the same price as ours. In many cases they related that they stayed with the brand; in many cases they had changed and gone back after they had tried this particular brand of beer.

Hearing Examiner Hier: By this particular brand of beer, you mean Budweiser?

The Witness: That is the one that changed the price, yes, sir, Budweiser. These figures are approximately the same, I guess, as these I have.

(163) Mr. Mayer: The witness has stated, sir, that the figures appearing on the Anheuser-Busch exhibit are very close to and approximately the same as the figures which he gathered at my request concerning his own company's sales for that particular period.

By Mr. Mayer:

Q. Now, sir, directing your attention to Respondent's Exhibit 18 once again, and in particular to the sales figures

Charles A. Ens, Jr., for Commission—Cross

of your company as appearing thereon for the month of March, 1955, to what, sir, do you attribute the increase in sales of your product at that time?

A. In March of 1955?

Q. Yes, sir.

A. The selling price of Anheuser-Busch went to a higher bracket, and as I stated a few moments ago, many of the dealers and consumers which we had contacted stated that they were going back to their old brands due to this added cost of Budweiser.

Mr. Mayer: All right, sir. That is all we have, Mr. Examiner, of Mr. Ens.

Cross-examination by Mr. Barton:

Q. Mr. Ens, I believe you said that your duties with Griesedieck Brothers had been exclusively in St. Louis since you have been with the company the last seven years?

(164) A. St. Louis and St. Louis County.

Q. St. Louis and St. Louis County?

A. Yes, sir.

Mr. Barton: Would you mark this as an exhibit for identification, please?

Hearing Examiner Hier: That will be 24, Mrs. Wick.

(The document referred to was marked Respondent's Exhibit 24-A, and -B for identification.)

Mr. Barton: This is a letter dated June 21, 1944.

By Mr. Barton:

Q. I show you Respondent's Exhibit 24-A and -B for identification. Will you please tell us what that is (handing document to witness)? Please tell us what it is.

Charles A. Ens, Jr., for Commission—Cross

A. Yes, I think this was a letter that Mr. Ed Griesdieck, who is since deceased, sent out at the time that the Anheuser-Busch changed their prices, that we were not going to increase our prices. I think that was the letter at the time.

Hearing Examiner Hier: Was that a letter to the trade?

The Witness: "To my GB co-workers," yes.

By Mr. Barton:

Q. In other words, that letter went to employees and to the distributors, is that it?

A. To the distributors, I can't say.

(165) Q. It went to the employees?

A. To the employees, I know.

Mr. Barton: Your Honor, I offer in evidence 24-A and -B for identification (handing document to counsel).

Mr. Mayer: I have no objection.

Hearing Examiner Hier: Admitted.

(The document referred to, heretofore marked for identification Respondent's Exhibit 24-A and -B was received in evidence.)

By Mr. Barton:

Q. Mr. Ens, this letter, 24-A and -B, went to all retailers in St. Louis at the same time, did it not?

A. Not that letter that I know of.

Q. You can't say that it didn't?

A. No. That letter was sent to the employees, to the co-workers, the one that you showed me.

Charles A. Ens, Jr., for Commission—Cross

Q. Were excerpts of it sent to the trade, to the retailers in St. Louis and St. Louis County?

A. That I couldn't say offhand.

Q. You don't know?

A. To the best of my knowledge it wasn't, because I think that statement was made at the time to the press, and it was an open book.

Q. I see.

A. I am not sure of that, but to the best of my knowledge, (166) that is the way that that was done.

Q. In other words, that this was put in the press, the contents, the general substance of it appeared in the press?

A. No, I didn't say that. I said that the statement that was made by Mr. Griesedieck that we weren't going to raise the price of our beer or change the price of our beer at that time, this whole thing was not in the press to the best of my knowledge.

Q. All right. Do you know what percentage of your total production is devoted to package sales in St. Louis and St. Louis County?

A. I think I might have it here (referring to documents).

Q. Yes. Let me show you Respondent's Exhibit 21-A and B and the figures for Griesedieck Brothers, and ask you whether you have any comment on the percentages on that page?

A. Well, the only figures that I have that I might be able to comment on are '53 and '54 as far as this total barrelage. You have a barrelage listed here in 1953 of 778,142 barrels.

Q. Yes.

Charles A. Ens, Jr., for Commission Cases

A. I have 776,932, which is approximately correct, and you have 656,000 for '54 and I have 643,000. That is relatively the same.

Q. In other words, that could depend on when they shipped at the end of the year?

A. That could be, because we break everything down in cases (167) to barrels, regardless of whether they are quarts or cans.

Q. That is on the basis of 13.77?

A. 13.77, that is right. You have a percentage in here of 17.21 for '53. For '53 I have a percentage of 23.4.

Q. That is all beer, though, isn't it?

A. That is draft and packaged combined for the entire operation.

Q. That is packaged beer?

A. This is packaged.

Q. You don't have any figure on that?

A. I have no breakdown on that, no, sir. I might be able to give you that by month, but I can't give it to you by the year. I can give it to you by the month of those particular years. You have this broken down by the year.

(168) Q. That is broken down by the—

A. I am giving you each month of the year but I can't give by the year.

Q. Are these figures based on the 23 percent that you have for total?

A. The barrelage is approximately the same.

Q. That is, the figures we have used are approximately correct?

A. I would say so.

Mr. Barton: That is all.

Hearing Examiner Hier: Do you have anything more?

Charles A. Ens, Jr., for Commission Cross

Mr. Mayer: Nothing more.

Hearing Examiner Hier: Well, I do. Mr. Ens, if I understood you correctly, and you correct me if I am wrong, in the spring and summer of 1954 you lost sales and you attribute that in part to the cut in price in Budweiser beer; and in March 1955 and the succeeding time, you said, your sales have increased and you attribute that in part to the increase in March 1955 of Budweiser beer back to the figure, to the same level it had previously sold at.

What I am interested in finding out is this: Did you regain the customers you say you had lost or did that increase come from new customers—or what was the situation?

The Witness: I would say that we regained some or the greater portion of the drinkers that we had lost and also some from other branches.

(169) Hearing Examiner Hier: I see. Could you give me a rough estimate of the proportion that you regained? We will say, for example, that you lost—

The Witness: Well, I might say that our business, if I might refer to the figures—in February 1955 we hit an all-time low which was 4.8 percent of the business and in March we jumped right back up to 8.7 percent which was comparable to the figure which we had even in August of 1954. So, we came back to approximately the same level.

Hearing Examiner Hier: What did you lose? Can you give me a rough estimate of the proportion that you lost that you regained and what proportion you gained of new customers?

Would you say that 75 percent of the customers you lost came back?

Herold C. Meurer, for Commission—Direct

The Witness: It would be hard to say percentagewise. I will say this, that—I will say between 50 to—well, 50 or 60, possibly 75 percent we could have gotten back.

Hearing Examiner Hier: Anything more?

Mr. Barton: No, your Honor.

Mr. Mayer: Nothing.

Hearing Examiner Hier: Thank you very much for coming down.

(Witness excused.)

Mr. Mayer: May we have a few moments again?

Hearing Examiner Hier: All right.

(A recess was taken.)

(170) Hearing Examiner Hier: On the record.

Mr. Mayer: Mr. Meurer, would you take the stand, please.

HEROLD C. MEURER was thereupon called as a witness for the Commission and, having been first duly sworn, testified as follows:

Direct Examination

Hearing Examiner Hier: Will you give the reporter your full name and address.

The Witness: Herold C. Meurer, Graeser Road, Route 1, Creve Coeur.

By Mr. Mayer:

Q. And what is your business address?

A. 3615 Forest Park.

Q. Are you here today, sir, in response to a subpoena?

Herold C. Meurer, for Commission—Direct

A. Yes, sir.

Q. With what company are you associated?

A. Falstaff Brewing Corporation.

Q. And how long have you been associated with that company?

A. Twenty-one years.

Q. In what capacity are you presently employed by the company?

A. City of St. Louis sales manager.

Q. Did you hold that position in 1954, sir?

A. Yes, sir.

(171) Q. And what were your duties, or what are your duties as sales manager for the corporation in this area?

A. Supervising and training salesmen, indirectly in charge of all deliveries, and making regular retail contacts with salesmen or by myself.

Q. And do you have salesmen working under your supervision?

A. Yes, sir.

Q. About how many in this area?

A. Seventeen.

Q. Do they report to you as a matter of course?

A. Yes, sir.

Q. Do you personally make calls on retail accounts?

A. Yes, sir.

Q. Have you been doing this with regularity since you have been sales manager of the company?

A. Yes—I wouldn't say that I establish myself on a route just like a salesman, but I periodically make retail calls.

Q. Under what brand name is the beer product of your company sold?

Herold C. Meurer, for Comission—Direct

A. Falstaff.

Q. And approximately what share of the company's overall business is done in the St. Louis area?

A. At the present time I believe about 14 percent.

Q. In what general areas is Falstaff offered for sale?

(172) A. Well, it is rather spread out. I would say the western coast—no, that would be just in California, the northern part of California, and through the West, Midwest, South and Southeast, and central, probably—it covers about 26 states.

Q. And in the St. Louis and St. Louis County area how is Falstaff sold and distributed?

A. Directly from the Brewery.

Q. To the retail accounts?

A. To the retailer.

Q. Now, as sales manager of the company are you familiar with the market conditions at the retail level in St. Louis?

A. I think I am, yes.

Q. And is it part of your job to be acquainted with the conditions affecting the retail market?

A. Right.

Q. Now, sir, is there ordinarily a difference in the price to the retailer between Budweiser and Falstaff?

A. Yes, sir.

Q. And is Budweiser the beer which commands the higher price?

A. Yes, sir.

Q. And is that generally true with relation to the market areas in which your product and Budweiser are in competition?

Herold C. Meurer, for Commission—Direct

A. As far as I know, yes, sir.

(173) Q. And is this true generally with relation to the prices paid by the consumer?

A. I would say so.

Q. Now, sir, are you familiar with the reduction in price of Budweiser in January and June of 1954?

A. Yes, sir; I am.

Q. And as a result of the June reduction in price did the price of Budweiser become the same for like packages as the price offered by Falstaff?

A. Yes, they did.

(174) Q. Now, sir, inviting your attention to Respondent's Exhibit 18 and in particular to the figures showing the package sales of the Falstaff Company for the years of 1954 and 1955, particularly, sir, with regard to the months succeeding June of 1954, to what do you attribute the sudden minus percentages when your sales are contrasted to your sales of the previous year?

A. Well, I would say the drop in price of Budweiser to the price of the other beers, of the popular priced beers, at the time.

Q. What is the basis of that statement, sir?

A. Well, our sales, we had a sales trend which showed a definite increase in sales up to that time, and then at the time of the lowering of the price by Budweiser we started to show a decrease in sales. Now, naturally we were concerned and on investigation in the trade we find that a lot of our customers had more or less sampled or wanted to sample Budweiser at a popular price, and in that way we did lose a number of consumers.

Herold C. Meurer, for Commission—Direct

Q. Now, sir, do you in the conduct of your office, sir, as sales manager, make sales forecasts with respect to expected business by Falstaff in the St. Louis area?

A. Yes, sir. That is—

Mr. Baker: Your Honor, we object to anything brought in with reference to forecasts. We offered evidence (175) along that line yesterday and it was rejected as being untrustworthy.

Mr. Mayer: The question is "Do you make".

Hearing Examiner Hier: I didn't reject it as being untrustworthy, Mr. Baker. I rejected it as being premature and without the scope of the direct examination.

You may answer.

A. Yes, we do. All salesmanagers in our organization do project sales.

By Mr. Mayer:

Q. Now, sir, at my request have you brought your sales projection for the year of 1954?

A. Yes.

Q. May I have it please, sir?

A. Yes (handing document to counsel).

Mr. Mayer: Mr. Examiner, at this time I should like to have marked as Commission's Exhibit for identification 67 a document headed "1954 Retail Sales Estimate."

(The document referred to was marked Commission's Exhibit 67 for identification.)

Hearing Examiner Hier: When was that forecast made, Mr. Meurer?

The Witness: That was made in, I believe, October of the early part of November of '53.

Herold C. Meurer, for Commission—Direct

By Mr. Mayer:

(176) Q. I believe in response to the Examiner's question, sir, you stated that this forecast was made in October or November of 1953?

A. '53, yes, sir. That is when we set it up for the ensuing year.

Q. Are these forecasts made annually in the regular course of your business?

A. Yes, sir.

Mr. Mayer: Mr. Examiner, I offer into evidence Commission's Exhibit for identification 67.

Mr. Baker: We have no objection, Your Honor.

Hearing Examiner Hier: No objection?

Mr. Baker: No, sir.

Hearing Examiner Hier: Admitted.

(The document referred to, heretofore marked for identification Commission's Exhibit 67, was received in evidence.)

By Mr. Mayer:

Q. Now, sir, again inviting your attention to Respondent's Exhibit 19—I am sorry—Respondent's Exhibit 18, and particularly to your company's sales as reflected for the months succeeding March of 1955, to what do you attribute, sir, the sudden plus figures which appear in the column of your sales when they are contrasted with the previous year's sales?

(177) A. Well, I believe with a normalcy in pricing again we have more or less continued on with the trend that had been established prior to the decrease in Budweiser's price of '54, and we assumed that trend again.

Herold C. Meurer, for Commission—Direct

Q. Now, sir, have you familiarized yourself at my request with Falstaff's sales in nearby areas to the St. Louis market for 1954?

A. Yes, sir. At your request I got some information on the markets immediately surrounding St. Louis, that is, distributing points which would be in the adjacent markets.

Q. Now, sir, in those areas was there a differential in price existing between Budweiser and Falstaff at the dealer price during the year 1954?

A. Yes, sir, I am sure there was.

Q. In those areas in which Falstaff—in those areas we are speaking of generally in this area surrounding this area—and while Falstaff's market was decreasing here, when the differential was eliminated did Falstaff maintain its market position in those areas?

A. Yes, sir, and they maintained their market position, and in some cases increased sales.

Mr. Mayer: That is all we have, Mr. Examiner.

Hearing Examiner Hier: I would like to ask you this. I don't know whether your experience qualifies you to answer, or maybe there isn't any answer. Is there anything (178) reliable that I can go on to indicate what percentage of consumers are shifters, that is, who buy beer solely on a price basis without regard to brand or advertising or TV or any of the rest of the sales efforts?

The Witness: I think that would be the \$64,000 question. I think we would give that to find out.

Hearing Examiner Hier: All right. Go ahead, Mr. Baker.

Herold C. Meurer, for Commission—Cross

(179) *Cross-examination by Mr. Baker:*

Q. Mr. Meurer, you have been with Falstaff Brewing Corporation for 21 years, is that correct?

A. Yes, sir.

Q. And have been city sales manager for how long?

A. Fifteen.

Q. Now, just to identify the Falstaff Brewing Corporation a little more in the record, that company was established about 1921, was it not?

A. I wouldn't even know to say "about", frankly. I should but I don't.

Q. When you first went to work with Falstaff Brewing Corporation, how many breweries did they have?

A. They had three, I believe; two in St. Louis and one in Omaha.

Q. Two in St. Louis and one in Omaha?

A. Yes.

Q. Currently how many do they have?

A. Six actual breweries in production.

Q. After you came with Falstaff, they acquired then three additional breweries. Do those go by plant numbers?

A. Yes, Plant 1, 2 and so on.

Q. They had Plants 1, 2 and 3 when you joined the organization?

(180) A. Yes, sir.

Q. Now with respect to Plant 4, where is that located?

A. That is New Orleans.

Q. Could you tell me approximately when Falstaff acquired that brewery?

A. I would say somewhere around '35 or '36; I am not too well acquainted with that.

Herold C. Meurer, for Commission—Cross

Q. That was acquired from the National Brewing Company?

A. I believe so, of New Orleans.

Q. Where is Plant 5 located?

A. That is the Columbia Brewery in St. Louis.

Q. That is in St. Louis?

A. The former Columbia Brewery.

Q. When was that plant acquired, Mr. Meurer?

A. I believe that was in '45 or '46.

Q. At that time the Columbia Brewing Company was marketing beer in the St. Louis market, was it not?

A. Yes.

Q. In fact, that was Alpen Brau?

A. Yes.

Q. Alpen Brau had been one of the top sellers in this market prior to its acquisition by Falstaff?

A. That is right. Not just prior to the acquisition, but some time prior.

Q. Some time prior. And in 1940 they were the leading (181) seller in this market, were they not, so far as share of the St. Louis market?

A. Alpen Brau?

Q. Yes, sir.

A. Yes, I believe they were.

Q. Now, after Falstaff acquired Columbia, you dropped the Alpen Brau brand, did you not?

A. Yes, sir.

Q. You said it was acquired around '46?

A. I believe it was in '46, yes, sir.

Q. In that year Falstaff was right near the top in the St. Louis market as far as share of the market was concerned, was it not?

A. I believe it was.

Herold C. Meurer, for Commission—Cross

Q. You and Alpen Bran were the two leaders?

A. I believe they were.

Q. Where is Plant 6 located, Mr. Meurer?

A. That is San Jose, California.

Q. Do you recall when that was acquired?

A. I think that was about three years ago, if I am not mistaken, either '51 or '52.

Q. And that was acquired from Pacific Brewery?

A. Wieland I think was the name, W-i-e-l-a-n-d, I believe.

Q. That was a going concern, was it not, when it was purchased?

A. I believe so; I am not too familiar with it, though.

(182) Q. A number of these breweries that you have acquired added capacities, have they not?

A. I believe that is correct.

Q. Where is Plant 7 located?

A. That is Ft. Wayne, Indiana.

Q. When was that acquired, Mr. Meurer?

A. I believe that was leased the first—the first part of last year.

Q. And you have an option to purchase, do you?

A. I believe so.

Q. That was the Berghoff Brewing Company?

A. Yes, sir.

Q. And that was a going concern and marketing beer at that time?

A. Yes, I believe it was.

Q. Do you have any idea what Berghoff's sales were at that time?

A. No, sir, none whatever.

Q. You have undertaken considerable expansion at this Plant 7 that was acquired from Berghoff, have you not?

Herold C. Meurer, for Commission—Cross

A. I haven't been advised—I mean, I wouldn't know.

Mr. Baker: Your Honor, I would like to have marked for identification as Respondent's Exhibit 25 the annual report of the Falstaff Brewing Corporation for the year 1946.

(The document referred to was marked Respondent's Exhibit 25 for identification.)

(183) Mr. Baker: And marked for identification as Respondent's Exhibit 26 the annual report of the same company for 1947.

(The document referred to was marked Respondent's Exhibit 26 for identification.)

Mr. Baker: And as Respondent's Exhibit 27 the annual report of the same company for 1948.

(The document referred to was marked Respondent's Exhibit 27 for identification.)

Mr. Baker: And as Respondent's Exhibit 28 the annual report of the same company for 1950.

(The document referred to was marked Respondent's Exhibit 28 for identification.)

Mr. Baker: And as Exhibit 29 the report for 1951.

(The document referred to was marked Respondent's Exhibit 29 for identification.)

Mr. Baker: And as 30 the report of the same company for 1952.

(The document referred to was marked Respondent's Exhibit 30 for identification.)

Herold C. Meurer, for Commission—Cross

Mr. Baker: And as 31 the report for the same company for 1953.

(The document referred to was marked Respondent's Exhibit 31 for identification.)

Mr. Baker: And as 32 the 1954 report of the same company.

(184) (The document referred to was marked Respondent's Exhibit 32 for identification.)

Mr. Baker: And as Respondent's Exhibit 33 the quarterly report of the Falstaff Brewing Corporation for the quarter ending March 31, 1954.

(The document referred to was marked Respondent's Exhibit 33 for identification.)

Mr. Baker: And as 34 the quarterly report ending June 30, 1954.

(The document referred to was marked Respondent's Exhibit 34 for identification.)

Mr. Baker: And as 35 the quarterly report ending September 30, 1954.

(The document referred to was marked Respondent's Exhibit 35 for identification.)

Mr. Baker: And as 36 the quarterly report ending March 31, 1955.

(The document referred to was marked Respondent's Exhibit 36 for identification.)

Mr. Baker: And as 37 the quarterly report ending June 30, 1955.

Hier: C. Meurer, for Commission—Cross

(The document referred to was marked Respondent's Exhibit 37 for identification.)

Re Mr. Baker:

Q. Mr. Meurer, the only report we are missing here is the 1949 annual report. I wonder if you will supply that to us. (185) please.

A. I will ask management—'49?

Q. Yes.

A. Yes.

Hearing Examiner Hier: You are also missing the quarterly report for December 1954, if I have my notes correct.

Mr. Baker: That is the annual report.

Hearing Examiner Hier: Oh, that is the annual report. All right.

Mr. Baker: We offer these, your Honor.

Hearing Examiner Hier: First of all, I might ask what is the purpose of offering reports prior to 1950, such as 1947, 1948, 1949.

Mr. Baker: It identifies this company, shows the growth of this company, the business operations.

Hearing Examiner Hier: Well, those years are not in question. I do not see the point in encumbering the record with these particular reports. At any rate, Mr. Mayer, do you have objection?

Mr. Mayer: I do not see any relevance at this time. I don't recall—I don't see how they are pertinent at all to the examination of this witness today; and, frankly, I don't see how they pertain actually to any defense of this company—but they may correct that at a later time.

Herold C. Meurer, for Commission—Cross

Mr. Baker: If I might say, your Honor, this witness testified about the growth of this company and that as the (186) result of price cuts by Anheuser-Busch that growth was stopped and, certainly, in response to that, we have—

Hearing Examiner Hier: Let us get that cleared up right now. I did not understand him to say that the growth of the corporation was stopped. I understood him to say that there was a decided interruption in the sales trend at St. Louis—

Mr. Mayer: This witness did not testify about the overall growth of this company or overall size of this company.

Hearing Examiner Hier: Nevertheless, Mr. Mayer, these reports are relevant to the issues set if they show — and I haven't seen them—if they show that the company was doing all right profitwise during the years 1954 and 1955. That would of course tend to some extent to negate from the loss of sales—I am well aware of the answer you are going to make, namely, that you can lose sales and still make it up some other way—

Mr. Mayer: These reports are unconnected, probably—I haven't even looked at them—with the specific business this man testified about in this area, there will be no connection between that and the testimony this witness gave this morning.

Hearing Examiner Hier: But that doesn't make this witness incompetent; it makes the offer rather useless—

Mr. Mayer: Yes, sir—it makes it irrelevant.

Hearing Examiner Hier: I think you are right—I think it is relevant to some degree. It is a matter of weight; (187) but I don't see the relevancy of 1946, 1947, 1948, 1949 or even 1950. Taking the 1952 annual

Herold C. Meurer, for Commission—Cross

report, you get a very fair idea of the Falstaff financial and commercial strength, and starting from there you go to 1953 and 1954—

Mr. Baker: We will withdraw everything before 1950.

Hearing Examiner Hier: I will mark them as withdrawn. Mr. Reporter, show as withdrawn Respondent's Exhibits 25, 26 and 27.

(The documents referred to, heretofore marked Respondent's Exhibits 25, 26 and 27 for identification, were withdrawn.)

Hearing Examiner Hier: You would like to keep 1950?

Mr. Baker: We would like to keep 1950.

Hearing Examiner Hier: All right. Mr. Meurer, you are relieved from getting any 1949 reports, then, accordingly.

The Witness: Thank you.

Hearing Examiner Hier: Mr. Baker offers in evidence Exhibits 28 through 37 to which counsel for the Government objects; and I am overruling the objection and admitting those exhibits into evidence for such general relevance as I think they have.

(The documents referred to, heretofore marked Respondent's Exhibits 28, 29, 30, 31, 32, 33, 34, 35, 36 and 37 for identification, were received in evidence.)

Hearing Examiner Hier: Understand, now, gentlemen—I am talking to respondents—that a company can lose sales (188) particularly in an area and still make money. I mean, this is not the final answer to the situation, in my mind. Go ahead.

Herold C. Meurer, for Commission—Cross

Mr. Baker: Your Honor, I would like to have marked as Respondent's Exhibit 38 a letter signed by Joseph Griesedieck, "To all drivers and city sales personnel, City of St. Louis," dated July 7, 1954.

(The document referred to was marked Respondent's Exhibit 38 for identification.)

By Mr. Baker:

Q. I ask you, Mr. Meurer, if you are familiar with that letter.

A. Yes.

Hearing Examiner Hier: Who is Joseph Griesedieck?

The Witness: President.

Hearing Examiner Hier: Of Falstaff?

The Witness: Yes, sir.

Hearing Examiner Hier: Well, now, what is the connection between Falstaff and Griesedieck Brothers Brewing Company?

The Witness: There is no connection in the brewing—in the business.

Hearing Examiner Hier: They are just brothers?

The Witness: No. No, there is no—they are—(laughs)—the president of our brewery is a cousin to the president of the Griesedieck Brothers brewery.

Hearing Examiner Hier: No other connection?

(189) The Witness: No.

Mr. Mayer: Has this been offered?

Mr. Baker: No. I was just about to offer it. I offer it.

Hearing Examiner Hier: Do you object?

Mr. Mayer: Well, there is certainly no relevance to the last paragraph in that letter being talked about; but I have no objection to the admission of the document.

Herold C. Meurer, for Commission—Cross

(190) Hearing Examiner Hier: Well, I don't see anything that hurts or helps in this last paragraph, and rather than excise it it is admitted in evidence, Respondent's Exhibit 38.

(The document referred to, heretofore marked Respondent's Exhibit 38 for identification, was received in evidence.)

By Mr. Baker:

Q. Mr. Meurer, I show you Respondent's Exhibit 38, and I ask you to look at the Falstaff figures for February, 1955.

A. Yes, sir.

Q. Now, that shows a 32 percent increase over February of the previous year, does it not?

A. Yes, sir.

Q. So your trend started really in February rather than March or April, did it not?

A. Well, the upward trend in February wasn't a normal up trend, because of the announcement of a price rise on the first of March.

Q. There was no announcement in February, in February the Anheuser-Busch price was the same as yours, was it not?

A. The price was the same, but the announcement of a price increase.

Hearing Examiner Hier: It came out when?

The Witness: As I recall, Anheuser-Busch' came out about three weeks prior to the first of March.

(191)

Herold C. Meurer, for Commission—Cross

By Mr. Baker:

Q. What position were you in the St. Louis market in 1953, Mr. Meurer?

A. In 1953?

Q. Yes.

A. Second, I think.

Q. What are you today?

A. First.

Q. What position were you nationally last year?

A. Well, according to the records released that I saw, I believe we were fifth.

Q. It is my understanding from the figures that are in this record now that at the current rate of sales there is a very good probability that Falstaff will end up third or fourth nationally this year. Would you agree with that?

Mr. Mayer: Objection. May the witness be shown the figures that he is referring to before he makes any conclusion with regard to the figures?

Hearing Examiner Hier: Do you need the figures to answer the question, or are you familiar enough without them?

The Witness: I don't have any idea of the figures, sir.

Hearing Examiner Hier: If he doesn't have any (192) idea of the figures, Mr. Baker, obviously he can't answer the question.

Mr. Baker: We will withdraw the question.

That is all.

Hearing Examiner Hier: Mr. Meurer, I am going to ask you the same question I asked Mr. Ens. When your sales went back up in 1955, after Anheuser-Busch increased its sales price to retailers, could you give me an approxi-

Herold C. Meurer, for Commission—Cross.

mation of what percentage of that recapturing was old customers who had deserted you during the price cut and what percentage was new business, coming from other brands? Just a rough estimate, I know you don't have accurate figures.

The Witness: I was going to say, if we take the increase in sales that we showed I would say we got back a big majority. Percentagewise it would be a little hard to say, but I would say we probably ran a little higher, around 70 percent or so, just to assume that.

Hearing Examiner Hier: Now one other question I want to ask you. Neither side asked you or Mr. Eas this question, and it slipped my mind when he was on the stand. The record here shows that on the fourth of January, 1964 there was a price cut by Budweiser for the 24 12-ounce retail regular case from \$2.93 to \$2.68. Did that have any effect on your sales?

A. No, I can't honestly say that it did have.

(193) Hearing Examiner Hier: It is just the June price cut that had an effect on your sales?

The Witness: Yes, sir.

Hearing Examiner Hier: Then I am warranted in assuming, I figure, that the differential between \$2.68 and \$2.39, which was the June cut, namely, 33 cents, represents the limit outside the danger area to your sales, according to your testimony.

The Witness: I would say so, yes.

Hearing Examiner Hier: All right.

- Any more questions, gentlemen?

Mr. Baker: I have one question, your Honor.

Herold C. Meurer, for Commission—Cross

By Mr. Baker:

Q. The total beer sold in the St. Louis market in the last three or four years has not changed appreciably, has it? If you lump all competitors selling in the market, their total sales—

A. It has been pretty stable, I would say, yes.

Q. And you now have a greater share of that market than you had in 1953?

A. Yes, sir.

Mr. Baker: That is all.

Mr. Mayer: I have no further questions.

Hearing Examiner Hier: Well, I have one again.

Can you think of any other factor in your company's (194) operations or the operations of any competitor other than this price cut which would account for your sales drop after June of 1954?

The Witness: In this immediate market?

Hearing Examiner Hier: Yes, in this immediate market.

The Witness: No, sir; I cannot.

Hearing Examiner Hier: Did the quality of your produce remain the same?

The Witness: Yes, it did.

Hearing Examiner Hier: Anything more, gentlemen?

Mr. Baker: That is all.

Hearing Examiner Hier: Thank you, Mr. Meurer.

(Witness excused.)

Mr. Mayer: May we go off the record, sir?

Hearing Examiner Hier: Yes.

(Discussion off the record.)

Hearing Examiner Hier: On the record.

Henry G. Sewing, Jr., for Commission Direct

We will adjourn until 2 o'clock.

(Whereupon, at 11:00 o'clock a.m. a recess was taken until 2:00 p.m. of the same day.)

(195)

AFTERNOON SESSION

April 2, 1904 p.m.

Hearing Examiner Hier: The hearing will come to order.

Mr. Mayer: Mr. Examiner, we would like to call Mr. Sewing.

Hearing Examiner Hier: Mr. Sewing.

HENRY G. SEWING, JR., was called as a witness for the Commission and, being first duly sworn, testified as follows:

Direct examination by Mr. Mayer:

Q. Mr. Sewing, will you state your name and business address?

A. Henry G. Sewing, Jr., 3607 North Florissant Street.

Q. And are you here today in response to a subpoena?

A. Yes, sir.

Q. With what company are you associated, sir?

A. Carling Brewing Company.

Q. Were you associated with any other company prior to this?

A. Yes, sir. Griesedieck Western Brewing Company.

Henry G. Sewing, Jr., for Commission—Direct

Q. How long have you been employed by the combined Griesedieck Western Company and the Carling Company?

A. Since November, 1948, when the Griesedieck Western Company (CP6) procured their merge with the Hyde Park Brewing Company.

Hearing Examiner Hier: Keep your voice up, so counsel can hear you.

Re Mr. Muner:

Q. In what capacity are you presently employed by the Carling Company, sir?

A. As sales and merchandising manager of the St. Louis and Belleville Branches.

Q. Did you hold a similar position with the Griesedieck Western Company?

A. Yes, sir.

Q. How long have you held that position with the Griesedieck Western Company?

A. Since January, 1953.

Q. Under what brand name or names were the beer products of the Griesedieck Western Company sold in the St. Louis areas?

A. Under the brand names of Hyde Park 75 and Star beer.

Q. What were your duties, sir, for the Griesedieck Western Company in 1953 and 1954?

A. As sales and merchandising manager of the St. Louis and Belleville areas.

Q. And just what did that entail, sir?

A. Well, it entails the supervision of both on and off premise salesmen, merchandising men, the responsibility of (CP7) the merchandise in those two markets.

Henry G. Sewing, Jr., for Commission Direct

Q. How many salesmen did you have under your supervision in 1954, sir?

A. Sixteen men, with three supervisors in the key areas.

Q. Did the salesmen report to you as a regular couple of their business duties?

A. Yes, sir.

Q. Did you make calls personally on your own to various retail accounts in this area?

A. Yes, sir.

Q. As a salesmanager are you familiar with the market conditions at the retail level in the St. Louis area?

A. Yes, sir.

Q. Is it part of your job to be acquainted with the conditions affecting the retail markets?

A. Yes, sir.

Q. Now, sir, are you acquainted with the fact that Anheuser-Busch reduced its price in January, 1954, and again in June of 1954 in the St. Louis and St. Louis County area?

A. Yes, sir.

Q. And as a result of the June reduction in price of Budweiser did the price of Budweiser become the same for like packages as the beer products offered by your company?

A. Yes, sir.

Q. Now, sir, in the sale of 3.2 or 5 per cent beer in the (198) St. Louis area, is the price the same for both beers?

A. Yes, sir.

Q. And is that true of all brands within the St. Louis area?

A. Yes, sir.

Q. Inviting your attention to Respondent's Exhibit 15 and in particular for the sales attributed thereon to the Griesedieck Western Company, I wish you would study

Henry G. Sewing, Jr., for Commission—Direct

that, sir, with relation to the sales as they appear thereon for the year of 1945 and the months disclosed on the exhibit for 1954, and for the months disclosed on the exhibit in 1955. Now, sir, calling your attention specifically to the months listed for your company's sales in 1954, the months succeeding June of 1954, to what do you attribute the sharp decrease in sales of your product?

A. Well, the major portion or the basic part of it the cut of price on the Budweiser merchandise, making it a popular price.

Hearing Examiner Hier: What was the rest of it?

The Witness: What was the rest of it, you say?

Hearing Examiner Hier: You say the major part. Was there any other cause and if so, what was it?

The Witness: Well, basically, sir, I say that because there is a slight trend of decrease here, the reason of which I don't know.

Hearing Examiner Hier: Your testimony is that (199) any acceleration of that downward trend as shown by those figures on Respondent's Exhibit 18 is, in your opinion, due to the fact that Budweiser dropped its price to retailers to the same as you were charging, is that right?

The Witness: Yes, sir.

By Mr. Mayer:

Q. Now, Mr. Sewing, what is the basis for that statement?

A. Well, basically the reports that were brought in to me by the men working in the field, the reports of consumers or retailers in their explanation as to why their sales had dropped off.

Hearing Examiner Hier: Who does he sell to?

Henry G. Sewing, Jr., for Commission—Direct

Mr. Mayer: Direct to retailers. We will ask that question.

By Mr. Mayer:

Q. In distributing your products in St. Louis and St. Louis County area, what type of distribution do you use?

A. Well, we use direct distribution in all of St. Louis and approximately between 40 and 50 per cent of the county, but there are also three wholesalers that distribute our products in the county.

Q. In relation to the statement you just made a moment ago, then it would be as a result of the comments of the direct retailers to whom you sold in the St. Louis and St. Louis County area?

(200) A. Yes, sir.

Mr. Mayer: That is all we have, Mr. Examiner, of Mr. Sewing.

Hearing Examiner Hier: Cross-examine.

(201) Hearing Examiner Hier: While they are conferring, Mr. Sewing, I will ask you this question:

Did the price decrease which Budweiser announced as effective January 4, 1954 adversely or otherwise affect your business; a drop from \$2.93 to \$2.68 for 24 12 ounces?

The Witness: I would say: To an extent, yes, sir.

Hearing Examiner Hier: To an extent?

The Witness: Yes, sir.

Hearing Examiner Hier: You do not know the extent?

The Witness: Well, I wouldn't know the extent in actual figures, but the point I mean when I say "to an extent" is that at that time there wasn't too much difference at the retail level, for instance, on the on-premise outlets. However, at the off-premise outlet it did develop

Henry G. Seving, Jr., for Commission—Direct

a narrowing of the margin between the price on sales to the consumer.

Hearing Examiner Hier: Counsel hasn't gone into it, probably for reasons of his own, but the other witnesses have been asked and I will ask you:

The record in this case shows that in March, I think March 1, 1955, Budweiser increased its price from \$2.35 back to \$2.65—I think it was somewhere in that neighborhood; and you are more familiar with that than I am. What effect, if any, did that have on your business?

The Witness: Well, immediately in March it didn't have too great an effect. However, it has accelerated our (202) business since that time, our business has increased.

Hearing Examiner Hier: Now, does that increase of business represent a recapture of retail outlets which deserted you during the price drop or does it represent new business acquired from, say, other brewers?

The Witness: Well, I believe that it is the recapture of consumers rather than retailers that deserted us.

Hearing Examiner Hier: Well, I realize I put it pretty broadly—but if the consumer wants it the retailer will buy it?

The Witness: Yes, sir.

Hearing Examiner Hier: All right.

Mr. Baker: We have no questions.

Hearing Examiner Hier: No questions?

Mr. Baker: No.

Hearing Examiner Hier: You are excused, then, Mr. Seving; and thank you.

(Witness excused.)

Mr. Mayer: At this time I would like to call Mr. Smith.

William H. L. Smith, for Commission—Direct

WILLIAM H. L. SMITH was thereupon called as a witness for the Commission and, having been first duly sworn, testified as follows:

(203) *Direct examination by Mr. Mager:*

Q. What is your business address, Mr. Smith?

A. 3507 Florissant Avenue, St. Louis, Missouri.

Q. Are you here today, sir, in response to a subpoena?

A. Yes, sir.

Q. And with what company, sir, are you associated?

A. Carling Brewing Company.

Q. And were you previously associated with the Griesedieck Western Company?

A. Yes, sir.

Q. In what capacity are you presently associated with at Carling Company?

A. I am sales manager for the Stag Division of the Carling Brewing Company.

Q. And in what capacity were you employed by the Griesedieck Western Company?

A. As sales manager for Stag Beer—mainly dealing with distributors.

Q. And for how long did you hold that position?

A. With the Griesedieck Western, I think since about 1948.

Q. And what were the duties of your position in 1954 with the Griesedieck Western Company?

A. To supervise the sales and operations of our distributors.

Q. Now, sir, in 1954 in what areas were your products sold?

William H. L. Smith, for Commission—Direct

(204) A. We were in approximately 20 States. Some of these States were—(after pause)—for lack of a better word, hang-overs from the Milwaukee beer strike in 1953.

We distribute the beer as far west as California; as far east as Pennsylvania; south to Georgia; and north to Wisconsin and Michigan.

Q. Now, is there ordinarily a difference in price to the retailer between your product and Budweiser?

A. Yes, sir.

Q. Does Budweiser command a higher price?

A. Yes, sir.

Q. And is this true in all areas in which your product competes with Budweiser?

A. It is now, sir, yes, sir—as far as I know.

Q. And is that generally true of the price to the consumer which your product has as opposed to the price of Budweiser?

A. In some—well, generally true, yes, sir.

(205) Hearing Examiner Hier: Do you sell f.o.b. the brewery?

The Witness: Yes, sir.

By Mr. Mayer:

Q. Now, as contrasted to the St. Louis County and the St. Louis area in which a price differential was eliminated, in the areas in which you are competing with Budweiser and in which the price differential was maintained did you hold your regular market position in those areas?

A. Generally speaking, yes.

Q. Now, sir, during 1954 was there any change in your product?

William L. Smith, for Commission—Direct.

A. No, sir; as far as I know there wasn't.

Q. Mr. Smith, directing your attention to Respondent's Exhibit 21-A, would you comment for me, sir, upon the accuracy of the figures thereon pertaining to the Gulf and Western Company.

A. These figures are not accurate.

Q. And why is that, sir?

A. Well, I can't go back—I know from 1948 to 1953 these figures are inaccurate, possibly 1948 is correct. I don't know about that, but I would say 1949, 1951, 1952 and 1953 are inaccurate, I am not sure on 1954.

Q. Now, speaking with relation to the inaccuracy of those years, would it affect the particular market share that that (206) exhibit discloses?

A. Yes, sir.

Q. It would?

A. Yes, sir.

Q. And using 1953 as an example generally, what would happen to that figure?

Mr. Baker: Which figure are you talking about?

Mr. Mayer: The figure showing percentage.

Mr. Baker: In the fourth column?

Mr. Mayer: Yes, sir, the column showing percentage.

The Witness: That column showing percentages would be increased.

By Mr. Mayer:

Q. It would, sir?

A. Yes, sir. To what degree I don't know.

Mr. Mayer: That is all we have, Mr. Examiner, W. L. Smith.

Hearing Examiner Hier: Cross examine.

William H. L. Smith, for Commission—Cross

Cross examination by Mr. Baker:

Q. Do you have a copy of your figures with you?

A. No, sir; I do not.

Q. Have you taken into consideration the fact that this Respondent's Exhibit 21-A deals with package goods only?

A. Yes, sir.

(297) Mr. Baker: Your Honor, we would like to have this witness bring in his correct figures, as he states those are in error, and postpone cross examination until we get the figures.

Hearing Examiner Hier: Are they obtainable?

The Witness: Yes, sir.

Hearing Examiner Hier: Within what time? Can you reach them by phone?

The Witness: I can have them start working on them, yes, sir.

Hearing Examiner Hier: I mean, can you get them back here this afternoon?

The Witness: No, sir; I don't think so.

Hearing Examiner Hier: Tomorrow morning?

The Witness: Either tomorrow morning or tomorrow afternoon. I would prefer tomorrow afternoon to be sure.

Hearing Examiner Hier: What do you say, counsel?

Mr. Mayer: Frankly, I would like to have the figures just to give the accurate picture of what it is like, to establish the accuracy, that was the only purpose for even commenting on it.

Mr. Baker: We want the accurate figures too.

Mr. Mayer: I think it should be done on the Examiner's insistence for the witness to produce the figures. I don't want to postpone the ending of the matter, however.

William H. L. Smith, for Commission—Cross

(208) Hearing Examiner Hier: Mr. Smith, you will be excused now and return to your office and obtain these figures as rapidly as possible, because this set of hearings has to end this week. If you can get them by tomorrow morning, so much the better. And as soon as you get them return here with them.

The witness is temporarily excused from the stand, to resume as soon as possible on cross examination.

Mr. Mayer: May I ask, however, when Mr. Smith returns that the cross examination be limited only to those figures. The examination, as I understand it, has been concluded on the testimony.

Mr. Baker: No, we examined him only with respect to the figures, we found that he doesn't have them, and we are postponing all cross examination.

Mr. Mayer: I don't think that is fair. The testimony was not related to those figures.

Hearing Examiner Hier: Relax a minute.

Is there any reason why you can't finish your cross examination while the gentleman is here on other matters, whatever other matters you may have?

Mr. Baker: Well, I think that the figures are the bulk of the examination and they go to his total examination. Insofar as I can see there are very few questions aside from that, and we might just as well do it all at one time when (209) this witness comes back with the figures.

Hearing Examiner Hier: You still have a chance to redirect, I don't know what all the squabble is about anyhow.

Mr. Mayer: It is just a matter of time. I am one of the chief culprits, I guess, in that respect.

William H. L. Smith, for Commission—Cross

Hearing Examiner Hier: All right, you may finish your cross examination tomorrow.

You are excused, Mr. Smith.

The Witness: You want the figures to include the Hyde Park sales, is that right, or Stag only?

Mr. Baker: They include Hyde Park as shown on this exhibit; and they also show a breakout as between Hyde Park and Stag Beer, and for the years 1944 through 1954. And then they show a combined, another table combined for Hyde Park and Stag for the same years.

Hearing Examiner Hier: Do you want these figures back to 1944?

Mr. Mayer: No, sir; we have no particular interest in them at all.

Hearing Examiner Hier: What was your question? What was it limited to?

Mr. Mayer: It was limited, frankly, to the 1953 and 1954 figures on the tabulation.

Hearing Examiner Hier: You get the figures for 1952, 1953 and 1954, but do not go beyond that. I don't see (210) any point in going further than that.

Mr. Baker: I understand that counsel supporting the complaint is not questioning the accuracy of the earlier figures.

Mr. Mayer: I have no questions about them.

Hearing Examiner Hier: All right, just those three years.

(Witness excused.)

(211) Mr. Mayer: Mr. Examiner, that is all we have at this time. I have a witness subpoenaed to attend at 2:00 o'clock. I made some allowance for the cross-examination of these witnesses, which obviously did not take place.

Edward D. Jones, for Commission—Direct

Hearing Examiner Hier: How about getting him on the phone?

Mr. Mayer: I can try that, yes, sir. At this time he is probably on his way to the hearing.

Hearing Examiner Hier: All right. I don't think the taxpayers have gotten three hours' work out of me today. Get him here as soon as possible.

We will come back at 3:00 o'clock.

(A short recess was taken.)

Hearing Examiner Hier: Come to order.

Mr. Mayer: Mr. Jones is our next witness.

EDWARD D. JONES was called as a witness for the Commission and, having been first duly sworn, testified as follows:

Direct examination by Mr. Mayer:

Q. What is your business address, Mr. Jones?

A. Sir?

Q. What is your business address?

A. 300 North Fourth Street.

(212) Q. Are you here today, sir, in response to a subpoena?

A. Yes, sir.

Q. Mr. Jones, were you associated with the Grapesolbeck Western Brewery Company in 1954?

A. I was.

Q. And in what capacity, sir, were you associated with that company?

A. In 1954 I was chairman of the board.

Edward D. Jones, for Commission—Direct

Q. How long had you held the position as chairman of the board, sir?

A. I held the position of chairman of the board from February 16, 1953, until last November.

Q. And as chairman of the board or in addition to being chairman of the board were you also the chief executive officer of the company?

A. I think so, yes, sir.

Q. Now, sir, in 1954 what was the policy of the Griesedieck Western Company in declaring dividends and by that I mean was it was a quarterly basis, semi-annual basis, or on an annual basis?

A. The policy of the company was to declare and pay dividends quarterly.

Q. Did they declare a dividend on the first of October, 1954?

A. We declared a dividend payable October 1. The dividend (213) was declared preceding that.

Q. The announcement of the dividend was declared previous to that I understand. And with relation to the preceding dividend of the company, what did the dividend per share amount to in October of '54?

A. The dividend paid on October 1 was 12.5 cents per share.

Q. And what was the dividend paid for the preceding quarter by the company?

A. The preceding quarter would be the July quarter, and that was 25 cents a share.

Q. Now, sir, are you familiar with the fact that Anheuser-Busch decreased the price of Budweiser in St. Louis and St. Louis County in January and then again in June of 1954?

Edward D. Jones, for Commission—Cross

A. Yes, sir.

Q. Was there any connection or causal relationship, sir, between the price decrease of Budweiser and the subsequent decrease in dividend declared by the Griesedieck Western Company?

A. I will ask you to state the question again, please. Mr. Mayer: Would you read that, please?

(The pending question was read by the reporter.)

A. I think our directors had a very good accounting system and we caught trends and sales trends very quickly, and our sales went off in the summer referred to drastically in view of the fact that approximately one-fourth of our total business (214) was done in St. Louis and St. Louis County I think that our sales were materially affected and in projecting the sales our profits were materially affected and I think that was the basis for declaring a smaller dividend than the preceding quarter.

Mr. Mayer: That is all I have, Mr. Examiner, of Mr. Jones.

Cross-examination by Mr. Baker:

Q. Mr. Jones, in 1953 under what brands did you market beer?

Mr. Mayer: I object, if the Examiner pleases. This is all in the record through the representatives of the company previous to this, and Mr. Jones wasn't examined with relation to this. This is purely irrelevant to the testimony Mr. Jones gave.

Hearing Examiner Hier: It is certainly cumulative. It is in the record, Mr. Baker.

Mr. Baker: I withdraw the question.

(215) Mr. Baker: Your Honor, I would like to have marked as Respondent's Exhibit 39 a letter from Edward

Edward D. Jones, for Commission—Cross

D. Jones, "To our Stag customers," dated September 23, 1954.

(The document referred to was marked Respondent's Exhibit 39 for identification.)

Mr. Baker: And a letter of the same date signed by Edward D. Jones, "To our Stag Beer distributors."

(The document referred to was marked Respondent's Exhibit 40 for identification.)

By Mr. Baker:

Q. Mr. Jones, I hand you Respondent's Exhibits 39 and 40 for identification and ask you if they are true and correct copies of letters signed by you.

A. They are, I believe.

Q. They are true and correct copies?

A. I think so.

Mr. Baker: I offer these, your Honor.

Mr. Mayer: I object to the admissibility of these documents, your Honor. I wish to have the relevancy of these documents pointed out to the examination of Mr. Jones.

Mr. Baker: Let the Examiner look at them.

Mr. Mayer: Well, the documents are being offered and I am merely asking for what purpose.

Hearing Examiner Hier: What is the purpose, Mr. Baker?

(216) Mr. Baker: Your Honor, the witness has stated on direct testimony that the reason for the reduction in dividend in 1954 was because of the price cut in St. Louis of Anheuser-Busch. It is our purpose to show that that was not the reason; and this is part of that picture.

Edward D. Jones, for Commission—Cross

Hearing Examiner Hier: And you claim this letter indicates the reason for the cut in dividend in October 1954 was because they were selling out the Carling brewing business?

Mr. Baker: We are building up to that.

Hearing Examiner Hier: Well, I do not see any necessary sort of a relationship between the two. I mean, it is hard for me to understand why that would be relevant—

Mr. Baker: If your Honor will let us proceed we believe we can show that this company had a history of reducing dividends; that they were seeking and had been seeking for a period of time a purchaser and that was directly related to the decreased dividend.

(217) Hearing Examiner Hier: Now, Mr. Baker, injury to a competitor is no less an injury because that competitor is rocking on his heels financially and not in very good shape, if that is what your contention is, in fact it seems to me that that points up the injury more.

Mr. Baker: This competitor is not rocking on his heels.

Hearing Examiner Hier: That is the only inference I get out of seeking a purchaser.

Mr. Baker: I think, if your Honor will go along with us, there were other reasons for seeking a purchaser aside from any alleged financial difficulties that the company was in.

Hearing Examiner Hier: Of course, Mr. Mayer, you brought out on direct that they cut the dividend.

Mr. Mayer: Yes, sir.

Hearing Examiner Hier: The witness has stated that he thought, it was his informed judgment and opinion, that that cut was due to the price competition of Budweiser lowering its price.

Edward D. Jones, for Commission—Cross

Mr. Mayer: Yes, sir.

Hearing Examiner Hier: Certainly respondents have a right to show that that cut in dividend was due wholly or in part to other reasons than the price cutting. And this does not show it, but this may be part of the picture, the (218) full picture may show it. So I am going to admit these documents in the record—that is 39 and 40—and you may move to strike these and any other documents along the same line if it subsequently appears that the announced intention of showing other reasons has not been satisfactorily accomplished.

The Witness: Question, Mr. Examiner.

Hearing Examiner Hier: Pardon me?

The Witness: I didn't understand the phrase that this gentleman used, the company was rocking on its heels.

Hearing Examiner Hier: That was my phrase. I don't know whether you were or weren't. I was merely giving him an illustration there, that even if a competitor is rocking on its financial heels—I don't know whether they are or not—

The Witness: I don't understand what you mean.

Hearing Examiner Hier: I thought I gathered the inference from Mr. Baker's objection that if a competitor is looking for a purchaser because it is in financial difficulties it doesn't make any difference about price cuts. And I was trying to correct his impression in that respect so far as I am concerned. I didn't mean to imply that your company was rocking on its financial heels or was in bad shape or anything, I don't know anything about your company.

Mr. Baker: I want to state for the record that no (219) statement I made was intended to give that impression.

Eduard D. Jones, for Commission—Cross

Hearing Examiner Hier: No, that was purely my statement.

(The documents referred to above, heretofore marked Respondent's Exhibits 39 and 40 for identification, were received in evidence.)

Hearing Examiner Hier: Go on.

Mr. Baker: Your Honor, I would like to have marked as Respondent's Exhibit 41 the Annual Report of the Griesedieck Western Brewery Company for 1946.

(The document referred to was marked Respondent's Exhibit 41 for identification.)

Hearing Examiner Hier: Off the record.

(Discussion off the record.)

Hearing Examiner Hier: Go ahead with your marking.

Mr. Baker: And as Respondent's Exhibit 42 for identification the Annual Report of the Griesedieck Western Company for 1947.

(The document referred to was marked Respondent's Exhibit 42 for identification.)

Mr. Baker: And as Respondent's Exhibit 43 the Annual Report of the same company for 1950.

(The document referred to was marked Respondent's Exhibit 43 for identification.)

Mr. Baker: And as Respondent's Exhibit 44 the (229) Annual Report of this company for the year 1951.

(The document referred to was marked Respondent's Exhibit 44 for identification.)

Mr. Baker: And as Respondent's Exhibit 45 the Annual Report of this company for the year 1953.

Edward D. Jones, for Commission—Cross

(The document referred to was marked Respondent's Exhibit 45 for identification.)

Mr. Baker: I would also like to have marked for identification as Respondent's Exhibit 46 a letter from Edward D. Jones to the shareholders of the Griesedieck Western Brewery Company, dated October 1, 1954, to which is attached notice of special meeting of stockholders and proxy statement.

(The document referred to was marked Respondent's Exhibit 46 for identification.)

Mr. Baker: I would like to have marked as Respondent's Exhibit 47 a tabulation showing for the Griesedieck Western Company from the date of January, 1953 to December 1954 the monthly high and low of stock of that company.

(The document referred to was marked Respondent's Exhibit 47 for identification.)

Hearing Examiner Hier: Is it locally or nationally listed?

By Mr. Baker:

Q. Can you answer that question, Mr. Jones?

A. What is it?

(221) Hearing Examiner Hier: Where was your stock listed?

The Witness: Listed on the New York Curb and the Midwest Stock Exchange, duly listed.

(222) Mr. Baker: Your Honor, we offer in evidence Respondent's Exhibits 41, 42, 43, 44, 45 and 46.

Edward D. Jones, for Commission-Cross

Hearing Examiner Hier: How about 47?

Mr. Baker: We have not offered that yet.

Mr. Mayer: May I see them?

(The documents were handed to counsel.)

Mr. Mayer: I am sorry—was 46 offered?

Hearing Examiner Hier: 46 was offered. 47 was not.

Mr. Baker: That is correct.

Mr. Mayer: In view of the Examiner's ruling on previous annual reports to shareholders of a competing company, I will voice my objection to the materiality of that particular exhibit, but for Exhibit 46 I can see no reason for encumbering the record with this. I fail to see any causal connection or any relationship with Mr. Jones' testimony and Exhibit 46.

Mr. Baker: There is no '54 annual report, and that takes the place of the '54 annual report.

Hearing Examiner Hier: The objections of Government counsel to respondent's Exhibit 41, 42, 43, 44 and 45 are overruled, and the documents are admitted in evidence.

(The documents referred to, heretofore marked for identification Respondent's Exhibits 41, 42, 43, 44 and 45 were received in evidence.)

(223) Hearing Examiner Hier: Mr. Baker, as to Respondent's Exhibit 46, the only thing I see here which is of point is the financial statement—I mean telling the shareholders their rights, and the date they held the meeting and what was going to happen and all that sort of thing.

Mr. Baker: The reasons for the sale of the company are set forth on page 5, I believe, Your Honor.

Hearing Examiner Hier: 5?

Edward D. Jones, for Commission—Cross

Mr. Baker: And I think they are entirely relevant.

Hearing Examiner Hier: All right. Let me get some more detail, then.

I think some of the reasons have some bearing on this dividend picture, Mr. Mayer. I dislike to see so much extra material which has no bearing on this case go into the record, but I think it would present a very lopsided picture to excise this paragraph alone, which I do think has some relevancy, so I will overrule your objection to Respondent's Exhibit 46 and admit it into evidence.

(The document referred to, heretofore marked for identification Respondent's Exhibit 46, was received in evidence.)

By Mr. Baker:

Q. Mr. Jones, I show you Respondent's Exhibit 47 marked for identification and I will ask you to take a look at those (224) stock prices and see if they are correct?

A. I wouldn't know by looking at that.

Q. Would you have an idea as to the general range, as to whether they look generally in accord with your recollection?

A. The prices on those exchanges are established every day and I wouldn't leave it to my memory. It is a matter of record, and you will have to refer to the record. I wouldn't trust my memory on a day to day quotation of any stock exchange stock.

Q. Would you be able to check these in a reasonable period of time?

A. What do you mean by reasonable time?

Edward D. Jones, for Commission—Cross

Q. Mr. Smith is coming in tomorrow morning, of your company. He is coming back to testify tomorrow morning, and perhaps he could bring back from your office—

A. I doubt if he would have it. You would have to get that from the American or Midwest Stock Exchange, get an authority on that.

Hearing Examiner Hier: Why isn't that sufficient?

The Witness: I wouldn't know where he would have it. I wouldn't have it in my desk, and I doubt if the brewery would have it.

Your Honor, I think the New York Stock Exchange in New York would be glad to give it to you, but I would not hazard a guess on that.

(225) Mr. Baker: We will withdraw 47.

Hearing Examiner Hier: Mr. Mayer—

Mr. Mayer: Yes, sir.

Hearing Examiner Hier: Substantially what is on Respondent's Exhibit 47 is already in the record on Respondent's Exhibit 46; the range of prices are in there.

(The document referred to, heretofore marked for identification Respondent's Exhibit 47, was withdrawn.)

Mr. Baker: Your Honor, I ask to be marked as Respondent's Exhibit 48 a letter signed by Edward D. Jones, of June 23, 1954.

Hearing Examiner Hier: To whom is the letter addressed?

Mr. Baker: The letter is addressed to "Dear Friend" with a colon, obviously for the insertion of names after the colon.

Edward D. Jones, for Commission—Cross

(The document referred to was marked Respondent's Exhibit 48 for identification.)

By Mr. Baker:

Q. Mr. Jones, I show you Respondent's Exhibit 48 for identification and ask you if it is a true and correct copy?

A. (Examining document.) I think it is.

Mr. Baker: Your Honor, we offer 48 (handing document to counsel).

Mr. Mayer: We have no objection.

(226) Hearing Examiner Hier: Admitted.

(The document referred to, heretofore marked for identification Respondent's Exhibit 48, was received in evidence.)

Mr. Baker: That is all, Your Honor.

Mr. Mayer: We have no further questions.

Hearing Examiner Hier: Thank you, Mr. Jones.

The Witness: Thank you.

(Witness excused.)

Mr. Baker: Excuse me a moment. I wonder if I may be indulged a moment? We are missing some of the annual reports for the years 1949 and '48 and '52, and I am wondering if Mr. Jones would be so kind as to ask Mr. Smith to bring them in tomorrow morning? We searched and searched and were unable to get the annual reports for those years.

Mr. Mayer: Mr. Smith doesn't work for Mr. Jones any more.

•Hearing Examiner Hier: They have no contact any more, so I understand.

Edward D. Jones, for Commission—Cross.

Mr. Baker: They are part of the same organization.

Mr. Mayer: No.

Hearing Examiner Hier: No.

Mr. Baker: I beg your pardon.

Hearing Examiner Hier: We won't make an error
(227) boy out of you, Mr. Jones.

Mr. Jones: Thank you.

Mr. Mayer: Thank you, Mr. Jones.

Mr. Examiner, that is all of the witnesses we have called for today's hearing.

Mr. Baker: I wonder if we might have Mr. Smith bring in those reports?

Hearing Examiner Hier: Let's go off the record.

(Discussion off the record.)

Hearing Examiner Hier: On the record.

Very well, then, we will adjourn until 10 o'clock to-morrow morning, and I also understand from you that you will be prepared to rest the Government's case around noon.

Mr. Mayer: I will, sir.

Hearing Examiner Hier: And, gentlemen, whatever motions—I am not suggesting that you make any—but any motions you have to make you will make them on the record. You will argue and I will dispose of them to-morrow.

Mr. Baker: May we go off the record, your Honor?

Hearing Examiner Hier: Off the record.

(Discussion off the record.)

Hearing Examiner Hier: We will adjourn now to reconvene at 10 o'clock tomorrow morning.

William H. L. Smith, for Commission—Cross

(Whereupon, at 3:45 p. m., an adjournment was taken until 10:00 a. m. the following day, Thursday, September 15, 1955.)

(228) Thursday, September 15, 1955.

Met, pursuant to adjournment, at 10:00 a. m.
Before: Frank Hier, Hearing Examiner.

Appearances as before.

(229) PROCEEDINGS

Hearing Examiner Hier: The hearing will come to order.

Mr. Mayer: Perhaps at this time, sir, since Mr. Smith is here, it would be well to call him first with relation to the figures he has brought with him.

WILLIAM H. L. SMITH resumed the witness stand and testified further as follows:

Cross-examination—Continued by Mr. Barton:

Q. Mr. Smith, have you brought with you the annual reports for Griesedieck Western for 1948, 1949 and 1952, as requested by telephone yesterday and as indicated on the hearing record later in the day?

A. No, sir, I did not bring them with me.

William H. L. Smith, for Commission—Cross.

Mr. Barton: May I have the subpoena duces tecum, Your Honor?

Hearing Examiner Hier: Let's find out—are they available?

The Witness: Yes, sir. I checked this morning and they are available.

Hearing Examiner Hier: Well, you mean you refuse to produce them?

The Witness: No, sir. They were in Belleville, (230) at the Belleville plant.

Hearing Examiner Hier: They can't get those documents over here before noon.

By Mr. Barton:

Q. How far is Belleville?

A. Well, it is approximately 15 miles.

Mr. Mayer: With relation to that, Mr. Examiner, I would be willing to agree that if they were submitted at a later date by mail, that they be marked and submitted in evidence.

Hearing Examiner Hier: Mrs. Wick, we will reserve as Respondent's Exhibit 49 for the annual report for 1948.

Respondent's Exhibit 50, the same document for 1949.

And Respondent's Exhibit 51, the same document for 1952.

(Respondent's Exhibits 49, 50 and 51 were reserved.)

Hearing Examiner Hier: Mr. Smith, will you obtain those reports and send them down to me by mail to Washington. Just address them to the Federal Trade Commission. I guess you better get my name straight—H-i-e-r. Send them to me as soon as possible.

William H. L. Smith, for Commission—Cross

The Witness: Yes, sir.

Hearing Examiner Hier: I will order them incorporated into the record over your objection.

Mr. Mayer: Yes, sir.

(231) Hearing Examiner Hier: Under those numbers.

Mr. Barton: There is only one problem. We would like to get a copy of those for briefing purposes.

Hearing Examiner Hier: Do you have any objection to Mr. Smith sending those exhibits to Mr. Barton at the Jefferson Hotel?

Mr. Mayer: I have no objection.

Hearing Examiner Hier: All right, Mr. Smith, we will change that. Give them to Mr. Barton at the Jefferson hotel, Room 924, as soon as possible; today, if possible.

Mr. Barton: Thank you, sir.

Hearing Examiner Hier: Then you send them to me.

Mr. Barton: I will send them to you, yes, sir.

The Witness: We want to get them back, naturally. Could we have them photostated?

Hearing Examiner Hier: That isn't possible. When they go into the public court record they stay. Do you have extra copies?

The Witness: Well, that I don't know. I didn't know we had to give them up. They may be our only copy possibly.

Mr. Barton: I would be willing to substitute a photostat, Your Honor, if it would be agreed on all sides that it is a true copy of the original, and as far as we are concerned, if it is all right with Commission counsel, we will (232) have the documents photostated upon receipt of them, and then send to Washington a photostatic copy.

William H. L. Smith, for Commission—Cross

Hearing Examiner Hier: That is all right with me, but it seems to me that is going to be a pretty expensive undertaking.

Mr. Barton: It is, but we have already invested a lot in this case.

Hearing Examiner Hier: All right. You have them photostated here in St. Louis and send the originals back to him and send me the photostats.

Mr. Barton: All right.

The Witness: If we have two copies I will let you know and you can keep it.

Mr. Barton: Fine. It depends on whether you need it back.

The Witness: That is right.

Mr. Barton: Your Honor, I would like to state for the record at this point that a recheck of Respondent's Exhibit 21 has indicated an error on our part in the figure reported for Griesedieck Western 1953, barrel equivalent to sales of packaged beer in the St. Louis and St. Louis County. The figure in the exhibit presently is 334,335 barrels, barrel equivalent. The correct figure is 368,109 barrel equivalent. That of course would change the percentage figure which is in the next column, based upon the total barrels for 1953 in the (233) exhibit, from 22.53 to 24.81.

I regret exceedingly a mistake in this figure, but it was called to our attention last evening.

By Mr. Barton:

Q. Now, Mr. Smith, as I recall it on the occasion of your examination yesterday you stated with respect to the total company barrels on Respondent's Exhibit 21 that "I

William H. L. Smith, for Commission—Cross

know from 1948 through 1953 these figures are inaccurate, possibly '48 is correct, I don't know about that, but I would say 1949, 1951, 1952 and 1953 are inaccurate, I am not sure on 1954."

Then you were directed to go back and determine 1952 through 1954 the accurate figures according to the company's records. Now, have you done so?

A. Yes, sir.

Q. Well, now, directing your attention to 1952, what do you now say is the correct total company barrels for Griesedieck Western in that year?

A. 1,052,890 barrels.

Q. 1,052,000—

A. 890.

(234) Q. And what do you now say is the correct figure for 1953?

A. 1,086,928 barrels.

Q. And what is the correct figure for 1954?

A. Well, I have 923,892—a small difference.

Q. It could be shipments that—on December 31, I take it.

A. Yes. I brought four copies if you would want one.

Q. Pardon?

A. I brought four copies, if you want one you can have it.

Q. Well, I think it is in the record. You have nothing else that you have brought other than what you have now read into the record?

A. That is right.

Q. Now, Mr. Smith, did you report your annual sales—I am speaking of "you"—did the company report its an-

William H. L. Smith, for Commission—Cross

annual sales to Beer Distributor Magazine or any other trade publication in 1953?

A. That I could not—probably did. I don't know.

Q. In other words, it is customary in the industry for the trade publications to ask for your annual sales figures?

A. Yes. I myself never submit it.

Q. Mr. Smith, I show you Commission's Exhibit No. 3 and ask you to read the figure which appears thereon for Griesedieck Western Brewery Company.

A. 1,483,631 barrels.

Q. That is the same figure that was on Respondent's Exhibit No. 21?

(235) A. I would have to check that but I assume that is right. I have a copy here. (After consulting document) That is right.

Q. You, of course, had seen Commission's Exhibit No. 3 before—that appeared in trade publications, you were aware of the existence of this?

A. That is right.

Q. Now, do you know who in your company reported this figure to the trade publications?

A. I am not sure whether it is done by the same person each time. I know my father did submit it for one year, that I know—but I don't remember which year it was.

Q. I see. Who would be another person who would—

A. Well, I wouldn't know, I really don't know.

Q. Now, in 1948 there was a merger between Griesedieck-Western and Falstaff—I mean and Hyde Park wasn't there?

A. That is right.

Mr. Mayer: I object, Mr. Examiner. I don't see any relevancy.

William H. L. Smith, for Commission—Cross

Mr. Barton: Now, at that time—may I proceed, your Honor?

Hearing Examiner Hier: Yes.

By Mr. Barton:

Q. You were with the company at that time, weren't you?

A. Yes, sir.

Q. And what was your position?

Mr. Mayer: Wait a minute, before he answers these (236) questions, Mr. Examiner, I would like to have a ruling on the objection.

Hearing Examiner Hier: What is the purpose of the examination?

Mr. Barton: Your Honor, I have a purpose that I think will become apparent as the question goes forward.

Hearing Examiner Hier: Very well. Objection overruled. Answer the question. Let us see what develops.

The Witness: In 1948 I was either assistant sales manager or sales manager.

By Mr. Barton:

Q. Now, it was necessary in connection with this merger to have some documents filed with the Securities and Exchange Commission, wasn't it?

A. That is right.

Q. And in 1954 Carling's Brewing Company acquired Griesedieck Western, didn't it?

A. That is right.

Q. And the figures which were submitted to the trade publications for 1954 were submitted by Carling Brewing Company, weren't they?

William H. L. Smith, for Commission—Cross

A. I assume so.

Q. And you stated yesterday that the figures for 1948 appearing on Respondent's Exhibit 21 were correct?

A. Without checking them I would say they probably were correct.

(237) Q. And that the 1954 figures were correct?

A. That is right.

Q. And so the figures—the assumption or statement or inference is that the figures for 1949, 1950, 1951, 1952 and 1953 are incorrect?

A. That is right.

Q. And you have demonstrated today that the figures for 1952 and 1953 differ from those which were submitted to the trade publications?

A. That is right.

Q. Mr. Smith, would you please explain to me what the purpose was in submitting figures to the trade publications which were false?

Mr. Mayer: Objection. That has no relevancy whatsoever. Mr. Barton, I understand, is merely trying to substantiate the figures which appear on his own documents. This witness has testified as to the actual figures. Now, the reason for reporting any other—that has nothing to do with the actual facts reported in the figures themselves.

Hearing Examiner Hier: You say they have nothing to do with the witness' testimony or the credibility of the witness?

Mr. Mayer: No, sir.

Hearing Examiner Hier: Objection overruled. The witness may answer.

The Witness: The primary purpose, as I understand (238) it, when we took over the Hyde Park brand, their

William H. L. Smith, for Commission—Cross

sales at that time at the end of that year plus the sales of Stag Beer amounted to—without checking, again—I think that 1948 figure.

The Hyde Park brand sales from that time on deteriorated quite rapidly and I think, you know, that when these figures were published then, I would assume that whoever did it would be afraid that the decline of sales of Griesedieck Western would be attributed to the Stag brand being the more popular brand and I would have—I think they would have kept—pegged the Hyde Park sales at that figure.

By Mr. Barton:

Q. I see. When Griesedieck Western acquired Hyde Park in 1948 Hyde Park was a very popular brand, wasn't it?

A. Not very popular.

(239) Q. Well, as a matter of fact, according to our records, Mr. Smith, that have been introduced in evidence here, in 1947, the year before Griesedieck Western acquired Hyde Park Hyde Park sold approximately two million statistical cases of package beer in St. Louis and St. Louis County, and accounted for approximately 18 percent of the market for package beer in St. Louis County. Does that sound about right to you?

A. Yes.

Q. You accept it?

A. Yes.

Q. And in that same year, 1947, Griesedieck Western—which by the way was marketing Stag Beer at that time alone, wasn't it?

A. That is right.

William H. L. Smith, for Commission—Cross

Q. —sold just a little more than Hyde Park in St. Louis and accounted for just over 19 percent of the package beer market. Does that sound about right to you?

A. That sounds all right.

Q. Who was the leading seller of package beer in St. Louis?

Mr. Mayer: Objection. The figures are in the record.

By Mr. Barton:

Q. In 1947 Griesedieck Western had 19 percent of the market?

A. I don't know, it could have been either Griesedieck Brothers or Falstaff, I couldn't recall.

Q. It wasn't Griesedieck Western.

(240) A. Not until—I think we took over the lead in either October of 1947—we lost it in November, I think we regained it in December and held it.

Q. That was after you acquired Hyde Park?

A. Prior to our purchase of Hyde Park, if these figures come into my mind properly.

Q. In any event, during 1947 you had approximately 19 percent of the package market, Hyde Park had about 18 percent of the package market, in 1948 you became merged, GW, Griesedieck Western and Hyde Park. And the percentage of the market which the merged company had jumped to around 37 or 38 percent, didn't it, or higher, in the ensuing years?

A. Are you adding the 18 and 19 for 1947?

Q. Isn't it a fact that after Hyde Park and Griesedieck Western merged in 1948 that the brands put out by Griesedieck Western, namely, Stag, Hyde Park, and later Hyde Park 75, accounted for better than 40 percent

William H. L. Smith, for Commission—Cross

of the market and almost 50 percent of the package beer market in St. Louis for a period of five years?

A. That is right.

Q. It was only after Griesedieck Western acquired Hyde Park that that percentage of the market was obtained by Griesedieck Western, wasn't it?

A. That is true. However—

Q. All right, that is the answer to my question, sir.

(241) Mr. Smith, in what areas outside of St. Louis and St. Louis County did Griesedieck Western compete with Anheuser-Busch in 1952 and 1954? Name it by markets, the major markets.

A. How do you define a market?

Q. St. Louis and St. Louis County is a market, isn't it?

A. All right, would you want me to go into Peoria and Beardstown, and so forth?

Q. What do you consider your market in which you were in competition with Anheuser-Busch in 1952, 1953 and 1954?

A. If you want it that way I would have to get a list of all our distributors from that time and classify them.

Hearing Examiner Hier: Let's take it by states.

The Witness: All right. We were in the State of Illinois, the State of Missouri, the State of Tennessee, Arkansas, Oklahoma, Kansas, Iowa, Indiana, Kentucky—it is all the way back to 1952, is that right? —Wisconsin, Michigan, Kansas, California, Texas, Louisiana, Mississippi, Georgia, Ohio, and Pennsylvania. To my knowledge—Alabama, New Mexico, Colorado, Idaho—that to my knowledge is the extent.

William H. L. Smith, for Commission—Cross

By Mr. Barton:

Q. You are not what is called the local brewer, are you?

A. Yes, sir, we are, regional brewer.

Q. You are a local brewer?

A. A regional brewer.

(242) Q. I see. And what was your position in the percentage of the market—what percentage of the market did you have in Illinois in 1952?

A. This is for the Stag Brand only, or for the Stag and Hyde Park?

Q. Well, give it to me for both of them.

A. Well, I don't know offhand.

Q. How about 1952?

A. I don't know.

Q. 1954?

A. I don't know.

Q. And you don't know for any of the states that you have named, or do you? How about Missouri?

A. I don't have those figures with me. I could get the figures from Missouri, they have them, probably, as well as I do, they are all published.

Q. How about Tennessee?

A. I could find that percentage for you.

Q. But you don't know now?

A. No, I do not.

(243) Q. Are you salesmanager of the company?

A. For Stag brand only.

Q. How long have you been salesmanager for Stag?

A. Since approximately '48.

Q. Mr. Smith, I note from Respondent's Exhibit 15 in evidence which, by the way, is a tabulation of sales by brand by month in St. Louis and St. Louis County since

William H. L. Smith, for Commission—Cross

1948 to date, that Hyde Park jumped from approximately 2 per cent of the market, of the packaged beer market, in the first four months of 1951 to approximately 11 per cent of the market in the next three months; in other words, in May, June, July of '51, and then continuously dropped off during the remainder of 1951 and 1952 until it accounted for less than 1 per cent of the market in 1953, and I am particularly interested in what happened in the summer of 1951 that the Hyde Park brand should have climbed to such a height and then dropped so far.

Mr. Mayer: I object, Mr. Examiner. I do not see any relevance whatsoever to the direct examination of this witness, and that question.

Hearing Examiner Hier: Neither do I. What is the relevance?

Mr. Barton: Your Honor, there has been testimony as to the effect of price on sales, and I wanted to show the fact of what causes changes in the market.

Hearing Examiner Hier: The testimony though, Mr. (244) Barton, was confined to '53 and '54.

Mr. Barton: That is true, Your Honor, but I don't think that necessarily precludes the testing of the accuracy of that testimony.

Hearing Examiner Hier: If we started to get into the merchandising problems of every St. Louis brewery back to 1951 we will never get through.

Mr. Barton: My last question, Your Honor—

Hearing Examiner Hier: I will sustain the objection, Mr. Mayer.

Mr. Barton: That is my last question, Your Honor.

Mr. Mayer: We have no further questions of Mr. Smith.

Miriam Chotin, for Commission—Direct

Hearing Examiner Hier: Thank you, Mr. Smith.
(Witness excused.)

Mr. Mayer: We would like to call at this time, Mr. Examiner, Mrs. Chotin.

MRS. MIRIAM CHOTIN was called as a witness for the Commission and, having been first duly sworn, testified as follows:

Direct examination by Mr. Melington:

Q. What is your name and address, Mrs. Chotin?

A. Mrs. Miriam Chotin, 3805 South Kings Highway,
(245) Q. Are you here in response to a subpoena?

A. I am.

Q. In what business are you engaged?

A. Packaged liquor.

Q. How long have you been engaged in that business?

A. Well, two to two and a half years myself.

Q. Do you sell packaged beer?

A. I do.

Q. In other words, you have what they call an off-premise license, is that correct?

A. That is right.

Q. What does your work entail?

A. Purchasing and selling.

Q. Do you actually wait on customers?

A. Yes, I do.

Q. In the operation of your store, Mrs. Chotin, do you get to know a number of your customers personally?

Miriam Chotin, for Commission—Direct

A. Yes, to a certain extent.

Q. Are you familiar with the price decreases of Budweiser in January and in June of 1954?

A. Yes, I am.

Q. As a result of these two price reductions by Anheuser-Busch, was the price of Budweiser to you the same as that of other brands of beer?

A. At the second reduction.

(246) Q. After both reductions?

A. Yes.

Q. What brands of beer do you offer for sale in your store?

A. Falstaff, Stag, Griesedieck Brothers, Pabst, Schlitz.

Q. Budweiser?

A. Budweiser.

Q. After the decrease to you by Anheuser-Busch did you offer Budweiser to your customers at the same price as the other beers?

A. I did.

Q. What was the reaction of your customers to the lowering of the price of Budweiser to the price of other beers?

Mr. Barton: I object, Your Honor. If Mr. Mayer would call every retailer in the City of St. Louis he could prove no more than is in the records already introduced in evidence here, and I submit that it is utterly irrelevant what any one of the 4,650 retail outlets in St. Louis may testify here with respect to the effect of the price reduction.

Mr. Mayer: I am perfectly willing to stipulate with Mr. Barton and to release all the witnesses if in line with the statement he made he will state to me what the figures do show happened as a result of the Budweiser price decrease.

Miriam Chotin, for Commission—Direct

Mr. Barton: I don't say that the figures necessarily have any cause and effect. All I say is that the figures are in as to what happened throughout the market and that no testimony of (247) a retailer as to cause and effect is any more valid than those total figures are.

Hearing Examiner Hier: Yes, but, Mr. Barton, you know as well as I do the effect involved in this question of competition, the whole distributor chain. Now, she is at the bottom end, the tail end.

Mr. Barton: If Your Honor please, I think that's true more in a non-territorial stage than a territorial stage.

Hearing Examiner Hier: That is correct. At the same time, I think they want to know it.

The objection is overruled. You may answer.

Mr. Melangton: Would you repeat the question, please?

(The pending question was read as follows:

"What was the reaction of your customers to the lowering of the price of Budweiser to the price of other beers?"

Hearing Examiner Hier: You may answer.

A. Well, I would say that quite a few of them—percentage did you want—I can't give exact percentages—switched to Budweiser, wanted to try Budweiser because of the price reduction.

By Mr. Melangton:

Q. Could you state the approximate percentage of the customers who did switch?

(248) A. Well, I would say approximately 75 per cent.

Mr. Melangton: No further questions.

Hearing Examiner Hier: Just a minute. 75 per cent of your customers or 75 per cent of those who were buying other brands of beer?

Miriam Chotin, for Commission—Direct

The Witness: Of those who were buying other brands of beer.

Hearing Examiner Hier: Is your experience in the retail end sufficient to give me an estimate of what proportion of your customers are entirely price conscious without respect to quality or brand label or anything like that?

The Witness: Yes. I would say around 75 to 85 per cent of our customers are price conscious.

Hearing Examiner Hier: What is the minimum amount which would switch brands?

The Witness: I don't understand.

Hearing Examiner Hier: By that I mean now X beer selling for—well, you didn't sell it by the can. What is the price of a carton of six Cold Budweiser?

The Witness: \$1.05.

Hearing Examiner Hier: Now, is there another beer that sells for \$1?

The Witness: Yes, there is.

Hearing Examiner Hier: Is that 5 cents enough to switch?

(249) The Witness: For some, yes.

Hearing Examiner Hier: How much does it take to switch the 75 per cent?

The Witness: I just don't know—

Hearing Examiner Hier: How much price difference would it take to switch the 75 per cent?

The Witness: Well, the 5-cent difference wasn't on the six cans. I believe that they were asking about the case price. The case price, there is quite a bit of difference.

Hearing Examiner Hier: Yes, that is true. But what I am trying to find out is how much difference in a carton of six cans will change the buyer's preference from Budweiser to X, or Miller to Pabst?

Miriam Chotin, for Commission—Cross

The Witness: Not now, no.

Hearing Examiner Hier: Cross-examine.

(250) *Cross-examination by Mr. Barton:*

Q. Mrs. Chotin, how many cases of beer did you sell in total in 1953?

A. I don't have any figures available right now, I mean, I wasn't told to bring any figures. There is no way that I could even tell you.

Q. You do not have any figures available?

A. I have them available at my auditor's, yes, but I don't have them with me.

Q. Have you looked at them recently?

A. No. I wouldn't be able to tell.

Q. How many cases of beer did you sell in 1954?

A. The total amount?

Q. Yes.

A. I haven't the slightest idea.

Q. How many cases of beer do you usually sell in a month, in July or August?

A. Well, I could tell you my purchase over a week's period, but I couldn't state correctly over a month's period.

Q. Well, now, let's take a week.

A. All right.

Q. How about the average week in July, what would you purchase of total beer, all brands?

A. Of this year?

(251) Q. Well, is this year any different than last year?

A. Yes.

Q. It is?

A. Yes.

Miriam Chotin, for Commission—Cross

Q. You mean you are selling more beer this year than you sold last year?

A. A certain per cent more, yes.

Q. When did you set up your business?

A. We have been in business now for almost ten years.

Q. And you have had an increase in business each year?

A. No, no, no.

Q. How much is your business up in '55 over '54?

A. Well, my business is not up.

Q. I thought you told me—you mean that just the month of July is up over last July?

A. No; no, sir.

Q. What is your average week's purchases of beer in the month of July?

A. Total?

Q. Yes.

A. I wouldn't know; I wouldn't be able to tell.

Q. You do not have any idea?

A. No. I purchase beer from day to day.

Q. Well, is it 10,000 cases, 5,000 cases, 1,000 cases?

A. No, nothing like that.

(252) Mr. Barton: May I have a subpoena duces tecum, Your Honor?

Hearing Examiner Hier: For what?

Mr. Barton: I want to ask for the production of all the records of purchases of Mrs. Chotin for 1952, 1953 and 1954.

Hearing Examiner Hier: Are such records in existence, Mrs. Chotin?

The Witness: Yes, they are.

Are you talking about the beer purchases?

Miriam Chotin, for Commission—Cross

Mr. Barton: Beer purchases. We are not interested in cigarettes or anything else.

The Witness: All right.

Hearing Examiner Hier: How long would it take you to produce these records?

The Witness: Well, I would have to get in touch with my auditor. I imagine about a day or two.

Hearing Examiner Hier: When do you wish these produced?

Mr. Barton: As soon as possible, Your Honor. I think all the testimony is utterly irrelevant, but I cannot have a witness getting on this stand making statements which obviously cannot be checked by cross-examination.

Hearing Examiner Hier: What I was thinking about, a day or two would take it to Saturday or Sunday.

(253) Mr. Barton: I realize that.

Hearing Examiner Hier: Would it be possible for you to produce these records tomorrow?

The Witness: I will try my best, I mean, I can call the auditor immediately.

Hearing Examiner Hier: All right.

Off the record.

(Discussion off the record.)

Hearing Examiner Hier: On the record, Mrs. Wick.

That isn't feasible, to go after all of those records. We would have to subpoena them from the witness.

You fill this out, what you want, or have Mr. Baker do it (document handed to Mr. Barton).

Hearing Examiner Hier: Mr. Barton, perhaps we could get at this another way.

Mr. Barton: Yes, Your Honor.

Hearing Examiner Hier: Mrs. Chotin, could you give us your gross business in beer in any month this year?

Eugene Weissman, for Commission—Direct

The Witness: No, I don't keep separate records.

Hearing Examiner Hier: All right.

Mr. Baker: Mrs. Chotin, what did you say your address was, please?

The Witness: 3805 South Kings Highway.

Hearing Examiner Hier: Off the record.

(Discussion off the record.)

(254) Hearing Examiner Hier: On the record.

Very well. Mrs. Chotin, you are excused as a witness and, Mrs. Wick the testimony of the witness Chotin is stricken from the record. Counsel in support of the complaint has withdrawn it.

(Witness excused.)

Hearing Examiner Hier: Proceed.

Mr. Mayer: Mr. Examiner, at this time I would like to call Mr. Eugene Weissman.

Hearing Examiner Hier: Come around, Mr. Weissman.

(255) EUGENE WEISSMAN was thereupon called as a witness for the Commission and, having been first duly sworn, testified as follows:

Direct examination by Mr. Mayer:

Q. Are you here today in response to a subpoena?

A. I am, sir.

Q. And what is your business address?

A. Our business address is 5080 Delmar.

Q. With what company, sir, are you associated?

A. Our company title is the Peoples Liquor, Inc.

Eugene Weissman, for Commission—Direct

Q. And is that a chain of retail stores in the area?

A. Yes, sir.

Q. In what capacity are you associated with the company, sir?

A. Well, my title is secretary.

Q. What are your duties in that position with the company?

A. Purchasing of liquor; advertising; merchandising—anything that would make for a more efficient organization.

Q. Did you hold those duties in 1954?

A. I did, sir.

Q. And in 1953?

A. Yes, sir.

Q. Are your stores located in the general St. Louis and St. Louis County area, sir?

A. Except one. We have one store in Joplin, Missouri.

(256) Q. How many stores do you operate in this area, sir?

A. 43 stores in this St. Louis area.

Q. At my request, Mr. Weissman, did you prepare some figures with regard to the purchases of your company of beer in 1953 and 1954 and up to currently in 1955?

Mr. Barton: I object.

Hearing Examiner Hier: Why?

Mr. Barton: I am sorry. Perhaps I didn't understand the question properly.

Hearing Examiner Hier: He asked if he prepared it.

Mr. Barton: I withdraw that.

Hearing Examiner Hier: All right.

Eugene Weissman, for Commission—Direct

By Mr. Mayer:

Q. May I have them?

A. Yes, sir.

Mr. Mayer: I would like to have marked as Commission's Exhibit 68-A and -B a tabulation of purchases of the Peoples Liquor Company in beers in 1953, 1954 and 1955.

(The document referred to was marked Commission's Exhibit 68-A and 68-B for identification.)

By Mr. Mayer:

Q. Mr. Weissman, directing your attention to what has been marked Commission's Exhibit for identification 68-A, would you tell us what the figures are appearing thereon with relation to whether they are case purchases or purchases by dollars?

(257) A. Well, these are dollar purchases.

Mr. Mayer: Mr. Examiner, I offer in evidence Commission's Exhibit for identification 68-A and -B.

Mr. Barton: Mr. Examiner, I object to the receipt in evidence of the exhibit on the ground it is irrelevant. I further object to it on the ground that as a matter of law retailers are unable to testify on the question of injury to a manufacturer, and that this relates solely to testimony of that nature.

Hearing Examiner Hier: Well, generally speaking, you are right, Mr. Barton, but retailers' records can form some basis from which an inference of injury or non-injury can be drawn. I do not think this is irrelevant. This is not the best evidence obtainable but it certainly is some indication of how he is doing in the beer industry—in beer sales to consumers.

Eugene Weissman, for Commission—Direct

Mr. Barton: I further object on the ground that the records of one retailer of 4,000 retailers in St. Louis are not a reliable indication or index of what retailers in general are doing.

Hearing Examiner Hier: Well, that is a matter of weight.

Mr. Barton: I agree.

Hearing Examiner Hier: The objections are overruled and Commission's Exhibit 68-A and -B is admitted in evidence for what it is worth.

(258) (The document referred to, heretofore marked Commission's Exhibit 68-A and -B for identification, was received in evidence.)

By Mr. Mayer:

Q. I am sorry, Mr. Weissman, I may be repeating. But did you tell us how many stores you have?

A. We have in total 44 stores.

Q. And are you the largest retail liquor chain in the St. Louis and St. Louis County area?

A. We consider ourselves the largest retail chain in the entire world.

Mr. Mayer: That is all we have, Mr. Examiner, of Mr. Weissman.

Mr. Barton: May we have a short recess, Your Honor, of three to five minutes?

Hearing Examiner Hier: Yes.

(A short recess was taken.)

(259) Hearing Examiner Hier: On the record.

Eugene Weissman, for Commission—Cross

Cross examination by Mr. Barton :

Q. Mr. Weissman, the name of your chain is Peoples Liquor, is that it?

A. Our corporate name is Peoples Liquor, Incorporated.

Q. What is the trade name of your stores?

A. We only sell under the Peoples Liquor Stores and the 905 Stores.

Q. Were they separate at one time?

A. Yes, sir.

Q. When did they merge?

A. It was four years this past year.

Q. And do you market a brand known as 905?

A. We certainly do.

Q. And that is called 905 Premium Beer, is it?

A. Yes, sir.

Q. And what price per case do you pay for 905 Premium Beer—it is in cans and bottles both?

A. Just cans.

Q. I see. What do you pay for a case of 24 12-ounce cans?

A. Well, if we include freight and delivery—which we must to bring our costs equal to the cost of local beers—our price is \$2.25.

Q. And has that price been the same from the time you started (260) handling 905?

A. Yes, sir; our cost and retail price have both been the same since its entrance into the market.

Q. There has been no change in either the cost price to you or the retail price of the 905 brand?

A. No.

Q. And when did you come into the market with it?

Eugene Weissman, for Commission—Cross

A. If I am not mistaken it has been two years this past May.

Hearing Examiner Hier: Who makes this 905 Beer?

The Witness: It is made by Atlas Prager in Chicago, Illinois.

By Mr. Barton:

Q. Mr. Weissman, it is a fact, is it not, that the number of brands of beer which 905 stores handled increased in 1954 over 1953 other than Budweiser?

A. If you will let me look at that slip it would mean more to me. Actually the only thing I am concerned with is dollar sales volume.

Q. I understand that.

A. You are speaking of 1954?

Q. Over 1953.

A. Yes, according to our record there was.

Q. How many was it increased other than Budweiser?

A. Five.

(261) Q. Five beers increased in 1954 over 1953?

A. Well, I would have to qualify that. I am including our sale of 905 from 1953, which we show as six month purchases against a 12-month purchase.

Q. And how many brands do you show on Commission's Exhibit 68-A and B?

A. How many brands do we show in the entirety?

Q. Yes.

A. Seven brands.

Mr. Barton: That is all.

Mr. Mayer: That is all we have, Mr. Examiner.

Hearing Examiner Hier: I want to find out about this switching. What has your experience been as to the

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least amount which will cause a customer to buy one beer in preference to another pricewise?

Mr. Barton: May I get your question, your Honor?

Hearing Examiner Hier: It was not very well put, so I will rephrase it. I am interested in finding this out, Mr. Weissman. What is the minimal difference in price which will cause a customer to buy one brand of beer in place of another?

The Witness: Your Honor, I don't know whether I would be qualified to answer that as to a minimum difference. We must also take into consideration consumer habits and consumer changing of their purchases.

(262) Hearing Examiner Hier: Do you wait on the trade yourself occasionally?

The Witness: Very seldom.

Hearing Examiner Hier: Very well.

Anything more, gentlemen?

Mr. Mayer: We have nothing.

Hearing Examiner Hier: Thank you, Mr. Weissman.
(Witness excused.)

Hearing Examiner Hier: Who is next?

Mr. Mayer: Mr. Examiner, that concludes the case in support of the complaint.

Hearing Examiner Hier: Counsel have told me they have a motion or motions to file. Will you dictate them into the record. We will dispose of them later, but I would like to know what the grounds are now, and I am sure those who answer will want to know also.

(263) Mr. Barton: Anheuser-Busch, Inc., hereby moves pursuant to Rule 3.8, sub part (c), of the Rules of Practice for Adjudicated Proceedings in the Federal Trade Commission, for an order dismissing the complaint herein

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on the ground that the Commission has failed to prove by reliable, probative and substantial evidence any violation of Section 2(a) of the Clayton Act, as amended by the Robinson-Patman Act (15 USC Sec. 13(a)).

In particular, in considering the whole record, the Commission has failed to prove (a) that the alleged practices tended substantially to lessen competition or to create a monopoly or to injure, destroy or prevent competition in the primary line within the meaning and intent of said Section 2(a) of the Clayton Act as amended, and (b) that the Commission has failed to prove a prima facie case under the allegations of the complaint.

Hearing Examiner Hier: Well, as you gentlemen know, I intended to dispose of this motion at this session, but both sides have introduced a great amount of statistics. I might say an indigestible amount in the time we have had. Necessarily a motion of this type requires analysis and comparison of the trends, proportions and so on, so as I indicated off the record yesterday, counsel for the respondent may have until Wednesday of next week, that is the 21st of September, to submit a brief in support of their motion, a (264) copy to be forwarded to Mr. Mayer and Mr. Melangton, and another copy to me by that time.

Mr. Mayer can have such time as he deems fit to answer that brief, up until October 3, and I am setting a hearing for argument on the motion in Washington, D. C., Room 332, Federal Trade Commission, on October 3, 1955, for the argument and disposition of this motion.

Now, if the motion is overruled or rather denied, I will expect respondent to proceed with their proof, with their defensive proof either the last week in October or the

Colloquy

first or second week of November, depending upon everybody's calendar and convenience.

I understand, Mr. Mayer, that you are tied up.

Mr. Mayer: Yes, sir. I have hearings scheduled for the last week in October and the first week in November.

Hearing Examiner Hier: Well, then, gentlemen, it will probably be the second week of November.

Mr. Barton: I have some problems there, but if I can maybe shuffle around it will be convenient. We are anxious to get the case disposed of and I will attempt to meet that date.

Hearing Examiner Hier: All right.

Off the record.

(Discussion off the record.)

Hearing Examiner Hier: On the record.

(265) Mr. Barton: I would like to have the Commission's brief a little before we go into the hearing.

Hearing Examiner Hier: Yes, I think that is proper.

Mr. Mayer, if you decide to file a reply brief, I think it only appropriate that Mr. Barton have that brief by Thursday preceding October 3.

Mr. Mayer: Mr. Examiner, as you know, if I would file a brief I will give it to Mr. Barton as quickly as possible. In our particular shop it takes something like five days subsequent to the day in which you submit it to get it created, and I am faced with that problem in any brief that I file. The time is very short here, but if we file a brief I will give it to him just as quickly as possible.

Hearing Examiner Hier: Off the record.

(Discussion off the record.)

Hearing Examiner Hier: On the record.

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All right, then, we will adjourn this case until October 3 in Washington, D. C.

(Whereupon, at 11:30 a. m. an adjournment was taken until 10:00 a. m., Monday, October 3, 1955, in Room 332 Federal Trade Commission, Washington, D. C.)

(266)

Monday, October 3, 1955

Met, pursuant to adjournment, at 10:00 a.m.

Before Frank Hier, Hearing Examiner.

Appearances same as before.

(267)

PROCEEDINGS

Hearing Examiner Hier: This hearing is solely for the purpose of oral argument on a motion to dismiss the complaint which was made at the close of the Government's evidence in St. Louis on September 15.

Since that time respondents have filed a very elaborate, well gotten up brief. I have read that brief, studied it and dissected it. Therefore, I say to the respondent and his counsel that there is no point in repeating what is in there already. I think I have got it in my head.

But I want to say to both of you that this business of picking out to show sales trends, market trend, a particular year which fits the particular purpose, and running thereon, doesn't go over with me. The period I am interested in here, and will be interested in, is from 1945 to

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the present time. Why not 1945? Because, if I understand it correctly, that was the first year in which these breweries, all over the country, were turned loose to buy grain without Government permission and allocation, turned loose to make and sell as much beer as they wanted.

For instance, just to pinpoint this, on page 23—and I am just picking this out of your brief, because I am satisfied if he had filed one it would have been the same thing—that is an old briefing thing that I was taught many years ago, just like the rest of you—on page 23 of your brief (268) Griesedieck Western had 47.6 per cent in 1949, and that declined to 38.9 in 1954. But if you go back to 1945, you don't only see that downward trend from 1949 on, you see an upward trend from 1945 to 1949, and then a downward trend—I mean, the way it is set up, it looks as if Griesedieck was sliding indefinitely, which wasn't a fact. They increased from 1945 to 1949, and then they started declining.

Now, as I say, I have read most of your material. What I am mainly interested in hearing is from Government counsel, whose silence for the last ten days has been pregnant.

Do you have anything to add to what is in your brief?

Mr. Barton: If Your Honor please, my plan today was to—as you say, we filed a rather elaborate brief, we are thankful that Your Honor gave us the time in which to do that.

As we told you in St. Louis, we had worked it up to about 75 per cent before the hearings began, consequently we were able to complete it in a week by dint of some hard work.

Hearing Examiner Hier: Yes, I can see that.

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Mr. Barton: But I would like to address myself to the point Your Honor raised about Griesedieck Western. The point that must be understood is that Griesedieck Western's increase between 1945 and 1949 was largely the result of the acquisition of a competing, substantially competing, St. Louis brewery, which, as the evidence indicated, they acquired in 1948.

(269) Hearing Examiner Hier: I remember that.

Mr. Barton: And if you will recall, the percentage of the market which Griesedieck Western had in 1945 was 12.2; in 1946, 11.7; 1947, 19.3. And in that same year Hyde Park, the competitor whom it acquired in 1948, had 17.1. So that in 1948 it is true that it went to 44.9 percent of the market, but it didn't go there because of normal business growth on the part of Griesedieck Western, it went there because it acquired one of the most substantial competitors in the St. Louis market, a competitor who in 1945 or 1946 had been the second brand in St. Louis.

Hearing Examiner Hier: That may be, Mr. Barton. But what I mean is, when it comes to market trend, sales trend or market trend, regardless of acquisition, sales or anything else, I am going to insist on the period in 1945 to 1955, and that period only.

Mr. Barton: Well, Your Honor, I think that fits in with our analysis in the case.

Hearing Examiner Hier: It is all right with me.

Now, do you have anything to add to what is in your brief, something additional? I don't see how you can have much.

Mr. Barton: That is a difficult question.

I would like, if I might, to simply point out a few of the salient points we make in the brief which we submit should bear on Your Honor's judgment in the case.

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(270) Hearing Examiner Hier: Which I just read twenty minutes ago.

Mr. Barton: I realize that, and we expected that.

If it would be helpful, Your Honor, I would like to point out the matters that we consider significant.

Hearing Examiner Hier: I won't cut you off.

Mr. Barton: At this juncture of the case we see two issues. Our contention is that the Commission has failed to establish a *prima facie* case. We think that the issues under that, principal issues, are:

1: That the Commission has failed to establish that there was a discrimination in price by Anheuser-Busch in connection with the lowering of the price of Budweiser in St. Louis for the eight-month period;

Secondly, we feel—it is our contention that in any event the evidence adduced by the Commission to date has failed to prove that there was a substantial lessening of competition, or any tendency to monopoly—in other words, any injury to competition—as a result of Anheuser-Busch for an eight-month period meeting the price of three competitors who had 82 per cent of the St. Louis market and had had it for years.

Hearing Examiner Hier: Are you seriously contending this doesn't amount to a territorial price discrimination?

Mr. Barton: Yes, we are. I don't think that is the principal issue. I think the principal issue at this juncture (271) is whether there was a showing of injury to competition. I think there is a point—as to whether there is a price discrimination within the meaning of the Act, I would like to revert to that in just a few minutes, if Your Honor will bear with me.

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I will merely refer to some salient points briefly.

No. 1, the market position of Anheuser-Busch. It is alleged to be the leader in national sales. It is the leader in national sales. But it is important to note that it doesn't have a leading position in any important market in which it does business. Though it does between 7 and 8 per cent of the national sales, its ranking in every important market in the country except one is less than that. And the only one in which its percentage of the market exceeds that is Illinois, adjacent to its principal place of business, and even there it is not the leader in sales.

Hearing Examiner Hier: Your point is that this is not the big dog; the small fellow?

Mr. Barton: It is not the kind of case that General Foods was.

Hearing Examiner Hier: I understand that. But it is true, is it not, that Anheuser-Busch did increase its share of the market in St. Louis slowly, but nevertheless consistently, for two and a half to three years prior to this price cut?

Mr. Barton: Yes, as a result of a change in sales (272) methods. In other words, as Mr. Hallquist has testified, some time prior to 1954 they had gone to a system of off-premises and on-premises—in other words, the sales force had been divided, and there had been a special effort made to develop the off-premise outlet sales of Budweiser. There had been advertising changes, changes in advertising program, there was a small, steady increase in Budweiser sales, that is true, not very large, however.

Hearing Examiner Hier: There are two points there that I am not satisfied with at all—of course, there are a number of other points, too—I may be stealing his thunder.

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I don't know, I don't know what he is going to say—but why was it necessary to cut prices in St. Louis and St. Louis County, when your market share was slowly but steadily increasing?

Secondly, you make the point that this was a testing business, which, of course, is lifted bodily out of the dissenting opinion in the General Foods case—for which I don't know that there is any judicial authority, but that is a legal point. Why pick St. Louis?

You said, or your witness said—or rather, his witness, but your official said—that there was—what was the expression he used? A substantial—I have forgotten the expression now.

Mr. Barton: There was a substantial potential in (273) that market.

Hearing Examiner Hier: I guess that is what it was, a substantial potential.

But it seems to me that if you were going to test the market, you could have tested it in a region where you were losing business, and losing it rapidly. I don't recall now, but it seems to me Texas was one—and having had some experience with your general counsel some years ago in a basing point case, I expect that is because Falstaff has a brewery down in New Orleans strategically located.

Mr. Barton: It is due to a number of factors, Your Honor. The Texas situation is a complicated one. There is a perfectly good explanation of why it wouldn't be done in Texas.

Hearing Examiner Hier: I could mention Fort Wayne; you have got another there strategically located either under contract or ownership.

Mr. Barton: No.

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Hearing Examiner Hier: That is Falstaff?

Mr. Barton: We have not acquired any brewery in another place in the entire corporate history of Anheuser-Busch.

Hearing Examiner Hier: I mean Falstaff has one there, and that undoubtedly gave you great transportation cost trouble in that area.

Mr. Barton: That was acquired rather recently; the (274) Fort Wayne brewery was a recent acquisition by Falstaff.

Hearing Examiner Hier: I can't see why you picked St. Louis County, where you gained business instead of where you were losing it, to do this testing.

Mr. Barton: Let me get to that point. I think the whole decision to make the effort in St. Louis has to be viewed in the light of the whole background.

That background was that Anheuser-Busch does business all over the country, that the beer markets in which it does its business are not under its control; the price in those markets is not made by Anheuser-Busch, the price is made by the various competing brand in those markets.

The fact is that economic forces reinforce the situation that the local beer markets are going to be supplied by the regional and local producers. There are varying cost factors, there are varying taxes, there are varying state and local regulations which contribute to and require that that be true.

Now, that situation in which the local markets are the important areas of competition has become increasingly important over the years since the war, and became more so in 1953, because there has been a marked increase in the public acceptance and in the importance of the com-

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peting regional and local breweries. It is evidenced by the phenomenal natural growth, both in total sales and in the percentage of various (275) local markets, by Anheuser-Busch's regional competitors—Falstaff, for example, the phenomenal growth it has had from twelfth several years ago to third in national position. Carling, a substantial brewer in Cleveland, who acquired Griesedieck Western in St. Louis, whose growth is outlined in the brief, is another one. And Hamm's, a Minneapolis brewer, whose growth has been phenomenal. And Stroh, a Detroit brewer, and many others.

Now, the development is the more important, since at the same time these regional brewers have grown Anheuser-Busch has been falling off. In other words, between 1953 and 1954 Anheuser-Busch's sales dropped off 13 per cent, while the industry was dropping something around 3 per cent. While Anheuser-Busch's sales were dropping, these competing regional brewers' sales were going up.

That is the one background factor. The other background factor is that the St. Louis situation must be viewed in the light of the serious sales reverses which Anheuser-Busch experienced in the latter part of 1953.

What do the figures show? They show that in December, 1953 Anheuser-Busch's sales of packaged beer in eighteen states were less than half of their sales in December, 1952, and that its total sales of packaged beer in December, 1953 were 35 per cent less than its sales of packaged beer in 1952 on a national basis.

(276) Now, the magnitude and the extent of that trend was confirmed by the fact that in 1954, as I said, Anheuser-Busch's sales nationally dropped over 13.6 per cent from

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the 1953 sales, while the industry dropped only roughly 2 per cent.

Now, when this severe national sales reverse occurred the opinion in Anheuser-Busch and among its executives was divided as to what to do. Various solutions were offered.

Hallquist testified, for example, that some executives suggested and recommended the introduction of new packages, and experiments along that line in those states, where it was permissible to introduce new packages, were undertaken.

As Hallquist testified, the beer business is an extremely regulated business. It is not possible for the beer business to adopt merchandising techniques that are adopted by other industries. They can't introduce new packages in every state. There are various laws prescribing and regulating the types of packages that can be introduced.

There were suggestions about the introduction of new products, and in fact, as the record discloses, after the St. Louis price reduction and the determination that more beer could indeed be sold if it could be sold at the same price as the dominant beers in that market, a new product was put out.

Anheuser-Busch put out a product in March, 1955, Busch Lager Beer, which is selling in the market where it is being sold at the same price as the regional and local beers (277) that are sold in those areas.

Now, finally, one of the moves in that process of experimentation was to lower the price in St. Louis.

Now, the reason for the St. Louis price reduction was twofold. In the face of the serious national reverses, they wanted more business, they needed more business, they needed it immediately. That was one reason.

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(278) The second reason was to obtain an answer to the questions that had been raised as to the reasons for the sales reverses and what could be done to reverse that trend.

Hearing Examiner Hier: That trend was evident in St. Louis and St. Louis County, though?

Mr. Barton: The trend had not taken effect in St. Louis County, to be sure. But you must remember that the percentage of the market and the sales of Anheuser-Busch had in St. Louis County were extremely small compared to everybody else in that market.

In other words, they were around ten per cent, when the principal competitors had percentages like 40 per cent, 25 per cent. They were peanuts in the St. Louis County market.

Hearing Examiner Hier: You say this price foray was experimental and inquisitive, but not punitive?

Mr. Barton: That is unquestionably true.

Hearing Examiner Hier: It has some aspects of being punitive, if you want to put it that way.

Mr. Barton: Nothing that I am aware of in this record.

Hearing Examiner Hier: That is just a matter of interest to me. Go ahead.

Mr. Barton: Well, so far as what actually happened in St. Louis—now, you recall, Your Honor, that part of the program in St. Louis initiated in January, 1954, was to introduce the pedal system of delivery. For years the method (279) of distribution of Budweiser's products in St. Louis had been on the basis of a telephone order system—in other words, the telephone operators would call

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the various outlets, ask them that they needed, take their orders, delivery to be made on a rebilled order.

Other St. Louis competitors had long been on the peddle system. Obviously the difference in distribution methods had an effect on sale. It is the difference between having every routeman and salesman—as all of its competitors did—make the solicitation and having the solicitation done by telephone, which is a demonstrably and obviously weaker method.

So that was introduced in 1954, in January.

At the same time, or about the same time, the price of Budweiser was reduced. Now, it was reduced at that time, as you will recall, on 24 12-ounce returnable bottles. The difference was 50 cents between Budweiser and Stag, Falstaff, Griesedieck Brothers. The reduction was made in January of 1954 of 25 cents, reducing that differential to 33 cents.

What happened? The reduction had very little effect on sales. It had no more effect than could have been expected from an increased advertising program, the introduction of the peddle system of delivery, and the normal trend which has been in effect over several years. The fact is that the reduction in price, which Anheuser-Busch made in January, 1954, (280) was reflected only in the price to retailers in the over-the-bar sales.

In other words, the retailer got a decreased price, that is, he paid less for Budweiser, but he didn't pass that reduction on to the consumer. So that the nickel over-the-bar differential that existed in many outlets in St. Louis for Budweiser over the other brands was maintained, and consequently there was no change, roughly no change, in the sales picture as a result of that 25-cent reduction.

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Now, by June of 1954—and incidentally, I would like to ask at this point whether the government is contending or makes any contention that the January price reduction of 25 cents was a discriminatory price reduction that had the effect on competition that is alleged in the complaint? Of course, they referred to the 25-cent reduction in the complaint, but it is not clear whether they contend that it had the effect—and it is certainly clear from the record that it did not.

Now, then comes the June 1954 decision. Now, the decision to reduce was taken in the light of the continued deterioration of Anheuser-Busch's position nationally. There is no bright spot in the national picture between December of 1953 and June of 1954, if you refer to Respondent's Exhibit 18. Some people in the company took the position that Anheuser-Busch's taste was not acceptable to a large number of (281) consumers. And so the decision was taken to further reduce the price in St. Louis.

Now, Your Honor asked why St. Louis, rather than Texas, or some other area where sales were dropping off.

Now, first of all it must be conceded, I think, that with Anheuser-Busch being located in St. Louis, and it being a fairly substantial beer market, and Anheuser-Busch having a percentage over the years ranging from 6 per cent of the market to 11 or 12 per cent, that there was a good potential for development there—in other words, they were there, their productive facilities were in St. Louis, they had a delivery operation direct from the brewery to the retailer in St. Louis. It was an area in which, if they built the market up through advertising, through getting the consumers to take the taste test on Budweiser, they could

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expect at the end of the period of development to retain some of the business. It is different from the situation in which they go into an area in which their market potential is less, where they might carry on an extensive advertising program, an extensive sales program, and then stopped.

In other words, not carry on that extensive program. They wouldn't expect to maintain in that kind of an area the same continued effect of the sales program as they could in St. Louis, because they are in St. Louis, they are ever present there, whereas they are not ever present in New Orleans or in (282) Memphis, Tennessee, or in Texarkana, Texas.

And as soon as they pull out with their advertising program their competitors close right in on them and take away everything that they have gained during the period of the program.

Hearing Examiner Hier: I understand that last one, but that first remark you made about the sales potential being greater in St. Louis and St. Louis County over every other market in the United States, I don't understand.

Mr. Barton: That I didn't say.

Hearing Examiner Hier: What did you say?

Mr. Barton: What I really meant by the sales potential is that the potential for retaining sales which were developed was better in the St. Louis market than in any other market of the country.

Hearing Examiner Hier: Without continuing the extensive advertising?

Mr. Barton: Without continuing the extensive advertising and sales promotion program.

If Your Honor please, I think that is demonstrable—it is not demonstrable on this record as it now stands—but

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I think it is a fact of which Your Honor can take notice, that as a matter of economics the home town company can expect to do better in its own bailiwick by a sales promotion program, and can continue to do so thereafter, than it can by carrying (283) on that program in some other part of the country where, as soon as it turns loose, as soon as it turns off the program, the competitors who are in that area can very readily pick it up.

Now, there are other factors in connection with doing this in St. Louis. It could be done under the observation of the home office. That was Anheuser-Busch's headquarters. It was necessary to learn and to know what was happening quickly. And the sales executives of Anheuser-Busch was in St. Louis, and they could see and observe what was done, and what the effects of the price reduction were.

Another important fact is that in St. Louis Anheuser-Busch distributes directly to the retailers. You will recall that in most of these other areas, or in Texas, for example, they distribute through wholesalers.

Hearing Examiner Hier: You have five areas where you distribute directly, don't you?

Mr. Barton: No, there are 21, actually.

Hearing Examiner Hier: 21?

Mr. Barton: That is right.

Hearing Examiner Hier: That have direct distribution.

Mr. Barton: They are the metropolitan areas—New York, Washington—it is in the record. But the point is that in Texas, for example, in most of Texas the business is done through a wholesaler. And the fact is that it was im-

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portant that the price reduction be passed on to the consumer.

(284) Hearing Examiner Hier: Your first experiment wound up in nothing, coddling the retailer price-wise meant nothing, you had to get to the consumer?

Mr. Barton: That is right. If you are doing business through the wholesaler, if you are selling to the wholesaler, and he sells to the retailer, and you pass on that price reduction, it may or may not reach down to the consumer level.

Hearing Examiner Hier: Just a minute. Before you get off this point, I want to check your statement on this. You said that this January price drop in St. Louis, that there had not been a bright spot in the national picture, that Budweiser was still going down. Now, I am looking at Respondent's No. 3, page 11, total AB sales in January, 1954, is 337,119 barrels, which is considerably down from the 1953 sales for the same or comparable months.

In 1953 you slid from 546,000 in January—not, in July—

Mr. Barton: Which page are you looking at, Your Honor?

Hearing Examiner Hier: That is page 3—you slid down until in December you were only selling 247,000 and some odd hundred barrels. But that picture did brighten, Mr. Barton; in 1954 it went up to 337,000; in February of 1954 it was 295,000; in March it went up, in April it went up. You got up around 400,000 barrels.

(285) Mr. Barton: Your Honor, may I call your attention to another exhibit which more graphically demonstrates the national sales picture. That is exhibit number —Respondent's Exhibit No. 14.

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Hearing Examiner Hier: I have seen that referred to a lot.

Mr. Barton: I would like to explain the significance of it.

Hearing Examiner Hier: Go ahead.

Mr. Barton: Now, if you will notice on Exhibit 14, it is the sales of Budweiser by months in the years 1952, 1953, 1954 and 1955, by wholesalers and by branches. In other words, it is the over-all national sales picture of sales actually to the retail trade. It is the actual barometer which is viewed by the sales executive as to how we are doing. And observe the figures. In November 1953 there was a drop compared to November 1952, 4,568,000 to 4,349,000. In December there was a drop, 5,305,000 to 5,038,000.

Then each month in 1954, January through October, it was worse, and in many cases much worse, than the prior month in 1953.

Observe the figure for January 1954 compared to January 1953.

Hearing Examiner Hier: How do you line that up with this other exhibit? These figures don't seem to gibe.

(286) Mr. Barton: They gibe in this sense, that the other exhibits are consumption figures.

Hearing Examiner Hier: As long as they are AB consumption, what difference does it make?

Mr. Barton: No, they are AB sales in that state—

Hearing Examiner Hier: There is a lag.

Mr. Barton: That is right, there is a lag. This Exhibit 14 is the kind of an exhibit that a sales manager looks at monthly and decides what is the national sales picture.

Hearing Examiner Hier: That is cash in the till?

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Mr. Barton: That is what is going out in the lines of distribution. In other words, if you don't get it out in the line of distribution in January, you are not going to have the sales in February. And by virtue of the fact that it is comparing figures which we have in our files—in other words, we have our actual January sales by wholesalers and by branches.

You see, the system is that each wholesaler sends in at the end of every month his sales, and they get it from the branches, so it gives an actual barometer of the situation. So you can see that the fact is that the national sales picture over-all had continued to deteriorate from the end of 1953 on through 1954.

Now, the point Your Honor makes from the other exhibit is an indication that in every month it was not the same in every state.

(287) In other words, the drop-off was more serious in December of 1953 over-all, state by state, than it was, say, in March, compared to March the year before. But the over-all picture is the one that is given on this Exhibit 14, and it shows that the Anheuser-Busch sales picture began to deteriorate in November of 1953, and it continued to deteriorate on through the period of the second price reduction in St. Louis.

Now, in addition to that it was quite clear from the January price reduction in which the price had not been passed on to the consumer that in order for Budweiser to develop a larger sales in St. Louis, they had to promote some kind of a taste test of Budweiser.

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What makes the consumer change brands? You asked Meurer when he was on the stand, what are the factors which cause a consumer to change brands? He couldn't answer the question. The fact is, however, that there had been built up over the years a tremendous inertia among consumers in St. Louis. Look at the figures. From 1949 through 1953 between 80 and 90 per cent of the beer sold, packaged beer sold in St. Louis, was sold by three companies, not including Anheuser-Busch, by the way.

In other words, Griesedieck-Western, Falstaff, and Griesedieck Brothers. Interestingly enough, there hadn't been any such domination by the three in the prior period. In 1945 there were six competing brewers, and no one of them had more (288) than 19 per cent of the market. It wasn't until Falstaff and Griesedieck-Western acquired their important competitors, each of them acquired an important competitor in St. Louis, that this condition of domination of the market by three to the exclusion, incidentally, of others who in 1945 accounted for 13 per cent of the market, but who, by 1953, had been squeezed out and accounted for around 4 per cent of the market, existed.

Hearing Examiner Hier: Haven't you proven that taste is dependent, to some extent, on the price?

Mr. Barton: No. I think what the price experiment proved is that if you can get the consumer to taste your product, some of them—not too many, but some of them—will stay with it.

Now, what does the—

Hearing Examiner Hier: Taste only requires a purchase of one bottle or one can. I certainly can't see that a nickel difference is going to stop you from buying one can.

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Mr. Barton: Yes, but the trouble is that most beer in the off-premise market is not bought by the bottle or by the can, it is bought by the case.

Hearing Examiner Hier: That is true. I don't know where you do your sampling, but I generally do mine in a saloon, not a grocery store or liquor stores. I don't want to buy a whole case of whiskey to taste it.

Mr. Barton: I don't think you can get a representative (289) opinion from one bottle, one sip, after you have been drinking the other brand for five years, merely tasting it for one drink is not what is required to induce you to change.

Hearing Examiner Hier: I think what you say there applies to government counsel more than it does to me.

Go ahead.

Mr. Barton: Let's see what actually happened as a result of that program. Now, over the five months—four months between April and July of 1955, which are the best figures in the record now—Anheuser-Busch accounted for 21 per cent of the market. And that includes not only sales of Budweiser, but includes sales of the Busch lager which came onto the market in March of 1955. The conclusion that Anheuser-Busch succeeded in picking up new drinkers and keeping them is somewhat blurred by the fact that Anheuser-Busch's share of the market today is not much lower—in fact, it is almost the same,—as it might have obtained if the trend in existence in 1952-53 had continued, as is indicated in that chart.

Hearing Examiner Hier: You are talking about St. Louis, the St. Louis market?

Mr. Barton: Yes, talking about the St. Louis market.

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It is also blurred by the unresolved question of how many of the drinkers who came to Budweiser in that period and were with them during that five-month period since the price went up, will stay with them.

(290) In other words, they may drop off tomorrow, the next day, the next month, two months from now. And it is also blurred by the fact that we can't tell how much of that increase was due to increased advertising, the peddle system of delivery—which was certainly a change in method of marketing—and in the general increased sales activity of Anheuser-Busch.

Hearing Examiner Hier: Now, the other brands increased, didn't they, all other brands?

Mr. Barton: They increased tremendously.

Hearing Examiner Hier: And Budweiser then retains some 9 per cent, if I remember right, from 12 to 21, is that right?

Mr. Barton: That is about right.

Hearing Examiner Hier: So it must have come out of the hide of Griesedieck Brothers, Griesedieck Brothers or Falstaff. As I recall, it didn't get out of Falstaff.

Mr. Barton: Obviously it didn't come out of Falstaff.

Hearing Examiner Hier: So it must have come out of the other two.

Mr. Barton: I would like to revert to that in a moment, as to how we can determine reason for changes.

But I would like to point out just a few more points about this price reduction. You will note that Anheuser-Busch at no time in that period had more than around 38 per cent of the market. I think in one month, in February, when the (291) price change was announced, the price increase was announced, there was a lot of loading up, but

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that wasn't a normal month. What happened was that immediately after the price increase in June they went to around 37, 38 per cent of the market. They slipped down to as low as 33 per cent in the ensuing period, and then went up again in February—they went up in December as the result of a particularly good advertising program, and then they slipped a little until January, and February, of course, was not a valid test period for the market proposition.

The important thing to note is that at all times in St. Louis 60 per cent of the beer was sold by these competing brands. Anheuser-Busch, its percentage of 38 per cent was not as large as Griesedieck-Western had had for five years, between 1948 and 1953.

It is interesting to note that in no month did Anheuser-Busch sell as much beer as Griesedieck-Western had sold in each of the summer months from 1949 to 1953.

In other words, this drive, this price reduction by Anheuser-Busch, indicated that there was a substantial segment of the St. Louis drinkers, who liked other brands, didn't even at the same price desire to try Budweiser, to the extent of 60 per cent. Anheuser-Busch's percentage never got above 38 per cent in the packaged beer market.

Now, I submit to Your Honor that that fact has importance, both (292) with regard to relative public acceptance, and more importantly, with regard to the lack of showing of any tendency to monopoly so far as the price reduction was concerned.

What the test really shows is that Anheuser-Busch, if it would seek to increase its business materially in any market, had to have a product in that market of comparable price to other beers in the market. It shows that for

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St. Louis, that is a lesson that it had to take to heart for sales all over the country. And it showed further that in order to do that they had to have a comparable—they had to have this comparable price in addition to a comparable advertising and sales promotion program, because, you see, the peddle system went into effect in January, 1955, the pricing program went into effect in January, 1954, but there was no appreciable increase in sales.

Hearing Examiner Hier: What do you say to this, Mr. Barton? A concern by such dramatic and interesting price rate as this increases its share of the market in one county in nine months from 12 to 38.9 per cent. Would you say that if that had continued there was no tendency to monopoly?

Mr. Barton: You mean continued where?

Hearing Examiner Hier: If they had not gone back up to the \$2.65 or \$2.68 price—which was it?

Mr. Barton: \$2.68.

Hearing Examiner Hier: \$2.68. Now, there was quite (293) a dramatic showing for the price increase for that period. But what I am seeking here is potential rather than actual. These competitors testified they got practically all of this business back.

Mr. Barton: They did.

Hearing Examiner Hier: So I contend that counsel for the government cannot contend that there was any permanent or lasting injury. But the potential is—especially on the motion to dismiss at the close of government's case—the conclusive factor, in my opinion.

You have had a lot of experience. You must realize that this was quite a dramatic, quite a forceful showing of economic power, quite a demonstration of economic power.

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Mr. Barton: I don't know about economic power, Your Honor. If you will recall the percentage of sales—in other words, the sales picture, the national sales picture of Anheuser-Busch, as compared to these three St. Louis competitors was about equal, it was 7 to 5.

Hearing Examiner Hier: Nationally I am not talking about.

Mr. Barton: That is a question of power, Your Honor. This is not the picture of a dominant company with no local competitor, as in the Muller case, or the Puerto Rican case, this is the picture of substantial companies, all of them, who all have the predominant part of their business outside of St. (294) Louis.

In other words, Griesedieck-Western, Griesedieck Brothers, Falstaff, all testified, and the figures show that—I think the biggest one was Griesedieck-Western, who had 35 per cent of their business in St. Louis, the rest of them had less than that, this was just one market in which all of them did business. And I submit to Your Honor that the figures which are demonstrated on Respondent's Exhibit 3 showing the—or Respondent's Exhibit 18—which show the changes in market position in St. Louis of these companies doesn't lead merely to the conclusion that the fact that any company for a short period had 38 per cent of the market was evidence of a tendency to monopoly. Griesedieck-Western had that kind of a percentage for five years, as the result of an acquisition. Certainly you can't conclude that that was a tendency to monopoly. These market shares change. They are eaten away by advertising, by a superior sales promotion program of a competitor. And I submit to Your Honor that the effects, that the result that Anheuser-Busch raised its percentage from

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12 to—momentarily from 12 to 38 per cent—is not prima facie, even, evidence of a tendency to monopoly.

Now, if Your Honor please, I would like to comment on that point later, but I just want to point out now that this question, this evidence of increased market share resulting from a reduction in price in a territorial case has not been (295) determinative, or not been alluded to in any of the cases which have there to be an illegal territorial price discrimination.

There was a general increase by General Foods in their market position, a very substantial one. When they started, they had between 25 and 50 per cent of the western market, as compared here to Anheuser-Busch having 12 per cent of the packaged sales in St. Louis. And the Examiner there dismissed the complaint at the end of the Commission's case, and was affirmed by the Commission, with full discussion in the opinion of this market problem by Commissioner Mead, and the majority concluded that that was not important.

Hearing Examiner Hier: I gather the impression from this record, Mr. Barton, that competition in beer sales was perhaps as keen in St. Louis County, as it could have been anywhere in the United States, because of the national roots of the majority of the populace there, their keen appreciation of beer, and their liking for beer, and also that perhaps they are quite price conscious. Do you agree with that?

Mr. Barton: I think those two points are true.

Hearing Examiner Hier: That is one of the things that impresses me about this price business.

Mr. Barton: You might note that St. Louis is one of the cheapest beer markets in the country.

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Hearing Examiner Hier: That is one of the things that (296) impresses me very markedly about this price-foray experiment, or what have you.

Mr. Barton: I prefer to call it an experiment, Your Honor.

Hearing Examiner Hier: If they can in that type of locality treble their share of the market in a period of nine months against that kind of competition, to me that is quite impressive.

I must say this to you. You are unfortunate in what was not your selection, you are unfortunate in the selection of the Examiner to sit in this case. I do not agree with the General Foods decision. I am bound to follow it—and I will follow it in so far as the facts are the same—but I don't agree with it.

So you have got that hill to get over, too.

Mr. Barton: I would like to point out to Your Honor that this so-called capture of the market, that Anheuser-Busch went up to 38 per cent of the market immediately after the price reduction. The figures, if you will note, in July of 1954—that is Respondent's Exhibit 18—

Hearing Examiner Hier: Which column are you on?

Mr. Barton: Anheuser-Busch, first column, 1954, the statistical share of the total. In other words, Anheuser-Busch went up immediately—it was an overnight rise to 37.6, actually.

(297) Now, that stayed about that percentage for July, August, and September. Then you will note in October 35.7, November 34.1, and in December they had the good advertising program, and it went back.

In January it was 33.2. And then February, of course, was the month of the loading, the announced price in-

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creases by all the St. Louis brewers except, I believe, Griesedieck Brothers, who didn't announce until March. But the February period was a period of loading. So it is not a fair test.

But the lesson in those figures show that there was no gradual accretion of market, it was just an immediate testing by a number of consumers, then competition started at the same price, mind you, snipping away at that medium increase which Anheuser-Busch had. In other words, to no more than Griesedieck-Western had had for five years. And, incidentally, to no more than Falstaff, according to Exhibit 18, obtained immediately after Anheuser-Busch's price went back.

You will note in April of 1955 Falstaff had 37.5; in May, 37.7; in June 37.7; and in July, 38.4.

Now, does Falstaff's percentage of that market show a tendency to monopoly on the part of Falstaff? Does Griesedieck-Western's share of over 40 per cent of that market over a five-year period show a tendency to monopoly?

I submit to Your Honor that these percentages of 37 to 38 which Anheuser-Busch had for that limited period did not (298) create a tendency to monopoly in the light of the established market positions which the leaders in sales in St. Louis had over an extended period. This isn't the picture of an industry in which there were a number of competitors, each of whom had 10 or 11 per cent, and they had that for many years, and one of them sky-rocketed to 30 or 40 per cent. In that kind of a situation—that is one situation.

This is different, I submit to you, this situation here where it is usually for the market leader in St. Louis to

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have about 35 per cent of the sales. It was true in the case of Griesedieck-Western, it is true in the case of Falstaff now.

Hearing Examiner Hier: It only was usual for a few years, though, due to acquisitions.

Mr. Barton: This is from 1948 now to 1955, and repeal was in 1933. I think you have to say that it is a rather usual situation, that the beer industry in St. Louis is such that the market leader is going to have around 35 per cent of the market.

Hearing Examiner Hier: There isn't any use in belaboring the point, Mr. Barton. This case is not similar to the other six in that respect.

Mr. Barton: It certainly is not.

Hearing Examiner Hier: Maybe he has a case that is factually similar, I don't know of any.

(299) Mr. Barton: Let me go to the discrimination point, Your Honor. You asked me if we were serious about discrimination. I think I should point out to Your Honor what is evident from the complaint, that they are not complaining here about a mere difference in price between the price at which beer is sold in St. Louis, and it is sold in Washington, D. C. That has existed for years. It grows out of the fact that there are these different beer markets where there are different costs, different taxes, different state and local regulations, different competitive situations.

And so the price is expected to be and is different from market to market. There is no evidence, certainly, that that differential caused any competitive injury, or could cause any competitive injury. Those differences have always existed, and will necessarily always exist.

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So that since counsel couldn't show any injury resulting from these differences from area to area, he has charged discrimination based upon an alleged regularly established premium price for Budweiser substantially higher than the price of competing regional and local beers. And the contention apparently is that Anheuser cannot depart from that regularly established, alleged regularly established premium price in one market without simultaneously, and equally doing it in all markets at the same time.

Now, it follows from that that is necessary to prove (300) that there was a regularly established premium price for Budweiser over these regional and local beers. If it is not proved, I submit to Your Honor that a key point in counsel's case is not established.

Hearing Examiner Hier: Now, are you contending that he must establish that that differential is the same everywhere, or simply that there is a differential, whether it be a half cent, or 40 cents?

Mr. Barton: I think he has to prove under the complaint that it is approximately the same. I think that is the theory of it. What sense would it be that there would be a differential of one cent in one place and fifty cents in another place, and an order saying you had to maintain the differential? It gets into all kinds of difficulties, Your Honor can readily see.

Hearing Examiner Hier: Make a note of that, I want to hear from you on that point.

Mr. Barton: Now, what is the evidence on this regularly-established premium price point? Hallquist was testifying, you recall, and he testified that each market was different. He testified that the differentials between Budweiser and the competing beers at that price, retailer level,

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existed in some places, didn't exist in others, and where it did exist it varied from one cent to \$1.22.

He pointed out that at the consumer level there was (301) even more variety in this differential, and that in Philadelphia, for example, there were more than a thousand bars, in a survey that was taken in 1954, that sold all beers at the same price, whereas 500 of them had a nickel differential for Budweiser over some other brands.

Hearing Examiner Hier: You are talking about packaged drinks?

Mr. Barton: I am talking about over-the-bar sales. That is for over-the-bar.

Hearing Examiner Hier: What about your packaged beer? Isn't it a fact that Budweiser does command a premium price in some amount over non-nationally distributed beers in every market?

Mr. Barton: No, Your Honor, not in every market.

Hearing Examiner Hier: I am speaking of Pabst, Miller's, Schlitz, Blatz—over the local beers, but it does not command a premium price of packaged beers.

Mr. Barton: What do you mean by "local beers"?

Hearing Examiner Hier: I am talking about beer that is sold in less than 48 states in the United States, local, regional, call it what you want, but less than 48.

Mr. Barton: I don't think that is true generally. It isn't true always, certainly, Your Honor.

The point is that there are beers such as Cor's—they are regional beers, really—they have an acceptance, a (302) pricing policy that will vary from area to area, and in many areas their price is above Budweiser, as a matter of fact. That is what the witness Hallquist was testifying to. That is what this study shows.

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Hearing Examiner Hier: Packaged.

Mr. Barton: Their price to the retailer. And therefore the price in the off-premises market would reflect that situation of the price to retailer pricing.

Now, the witness Hallquist was testifying that there was no regularly established differential, there had never been, and there isn't now. It is clear. As a matter of fact, you recall that he said he based it not only on his general knowledge, but on a survey which had been made in March 1954 of various areas in the country. A copy of that survey was introduced in evidence.

You recall that when I asked Your Honor to receive the offer in evidence, the results of that survey, as I recall it—

Hearing Examiner Hier: I told you it wasn't necessary to corroborate a witness, unless he has been disproved.

Mr. Barton: And as I recall it, your statement was that the gentleman had stated that.

Now, what did these others testify to? They said, Meurer, Ens, Sewing—

Hearing Examiner Hier: I remember what they (303) testified to.

Mr. Barton: All they testified to was the relationship of Budweiser to their own brand, nothing about Budweiser in relation to Hamm's, Cor's, and other brands.

Moreover, they didn't say there was any regularly established differential between—

Hearing Examiner Hier: That is all that Hallquist was denying, that there was a regularly established differential, he did not deny that there was a differential at times in some places.

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Mr. Barton: Quite true.

Hearing Examiner Hier: And that is what I take this record to reveal, that there is a differential.

Mr. Barton: We concede that in some markets there is a differential, in others, there it is not. And where there is a differential it varies from nothing to one cent to \$1.22. That is the statement in the record, that is the fact.

Hearing Examiner Hier: Of course you have to add that what you don't mention, namely, that Budweiser does advertise that it is a premium priced beer.

Mr. Barton: Well, most beers, as you know—and I think there is a concession on the record—advertise that they are premium beers.

Hearing Examiner Hier: I am talking about premium-priced beers.

(304) Mr. Barton: And the distinction between advertising premium beers and premium-priced beers is small, indeed.

The important point in the advertisement is "premium". Otherwise, why would Falstaff, Griesedieck Brothers, Griesedieck-Western, prominently display "premium" in all of their advertisements?

Isn't it clear that the important word in that advertisement is "premium"?

(305) Hearing Examiner Hier: I don't think so. But that is a matter of argument and inference.

Mr. Barton: Now, let's go to the injury to competition point. And we submit to you that counsel has not established any injury to competition in this case. What is the statutory language?

Hearing Examiner Hier: You have laid out each one of these competitors very fully in your brief, and I will

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over this thing very carefully from one o'clock to six o'clock yesterday. I don't think it is important. I want to hear what he says to all of this.

Mr. Barton: Do you want to let him talk?

Hearing Examiner Hier: If I want any more from you, I will ask you for it.

Mr. Mayer: In other words, I take it that Mr. Barton is through unless you call on him again?

Mr. Barton: I want to reserve—

Hearing Examiner Hier: We will get to that point later, Mr. Mayer. Take up the points he has made in his brief. First of all, take up the discrimination point. Is it discrimination in price, dropping from a so-called premium level to an ordinary level?

Mr. Mayer: It is, sir.

May I have Respondent's Exhibit 14? There is a discrepancy between what I have and what is in the record here.

(306) I think at the outset, to keep the case in the proper perspective, that we might look at the St. Louis market at the close of business in December of 1953. It portrays a rather interesting picture.

The national leading seller, Budweiser, ranked fourth in the whole market, with a national share of the market of 7.8 per cent, and total assets of approximately \$165 million. Falstaff, a competitor, was second in the St. Louis market for the year of 1953, ranking sixth nationally, with a 3.38 per cent of the national market, and assets of approximately \$22 million. Griesedieck Western was the leader in the market for 1953. It ranked thirteenth nationally, and it had a 1.7 per cent share of the national market. Its total assets were approximately \$16 million.

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Griesedieck Brothers, while third in sales in the St. Louis area, ranked 29th nationally, and commanded nine tenths of one per cent of the national beer market.

Now, subsequent to the January price reduction, the market position changed somewhat. Griesedieck Western was first, Falstaff was second, Budweiser was third, and Griesedieck Brothers was fourth. We have already heard the explanation from the nation's leading seller that there was no effort made to influence the consumer price for this particular price reduction, and therefore it is reflected little in the over-all sales figures in the area. Not so.

(37) After the June reduction, however, Budweiser immediately becomes No. 1 in this area, Falstaff No. 2, Griesedieck Western third, and Griesedieck Brothers fourth.

Now, looking at the picture after Budweiser increases its price, in March of 1955, at that time, prior to the increase, Budweiser was still first, Falstaff was second, Griesedieck Western third, and Griesedieck Brothers fourth in the St. Louis market.

Subsequent to the price increase in March, Falstaff becomes No. 1, Griesedieck Western No. 2, Anheuser-Busch No. 3, and Griesedieck Brothers No. 4, which discloses, as was pointed out by the attorneys for the respondent, that Budweiser increased its market share of approximately 6 or 7 per cent, and retained that—or, that is the amount retained—after the price increase was put into effect by Anheuser-Busch.

I think the significant figures ought to contrast the months of April, May and June in market share with the months of May, June and July of 1953. There was no price reduction in the months of April, May and June and July of 1955, and the market share figures range from a high

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of 12.8 to a low of 12.1 during those four months in 1953, and in 1955 to a high of 21.9 to a low of 19.0.

There are some rather significant figures, I think, that are being overlooked, at least to this point. It is rather interesting to comment that by virtue of this price reduction, (308) in only six months of 1954 Anheuser-Busch sold more than twice as much--their sales doubled in 1954 as opposed to 1953, and their gain in 1954 is more than their total sales in this area in 1953.

Now, I think we should look at the figures on Respondent's Exhibit 18. And while I am using these figures, and accept them, I think it is interesting to note that the original set of figures submitted by Anheuser-Busch and which were a part of this record, disclose that Anheuser-Busch's share prior to preparation of this document submitted by Anheuser-Busch got as high as 40 per cent of the market, rather than the 38 per cent it shows here.

It also shows on an over-all market basis a figure of 42 per cent market share in St. Louis, rather than any of the figures which show upon this particular exhibit.

Examining the sales of the Falstaff Company, I think it is well to point out that the figure showing the sales of Falstaff show a constant increase in the St. Louis market from the month of February, 1953, to and including the month of June, 1954, and then for the first time a minus figure appears on the tabulation, denoting that the sales are off in relation to the preceding year's sales, and that continues, except for the extraordinary month of February--as the respondents have pointed out as being extraordinary--that continues for every month in which the price reduction is in effect.

(309) Hearing Examiner Hier: Do you still contend that there was any permanent taking away of business?

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Mr. Mayer: I am going to maintain that there was some permanent switching, but there was a permanent effect on this price discrimination.

Hearing Examiner Hier: Do you consider it to be appreciable?

Mr. Mayer: Perhaps not appreciable in the switching, the actual switching from one brand to another.

Hearing Examiner Hier: You are relying mainly on the potentialities involved?

Mr. Mayer: Yes, sir.

Hearing Examiner Hier: I would think so. I don't see much else involved.

Mr. Mayer: I would like for you to get the perspective. I appreciate the loss of sales, and the rest, but I think we ought to look at this in the lights of the nation's No. 13 and No. 29 seller of beer in the nation.

Hearing Examiner Hier: Isn't your position this—Their point is this: that unlike the other six territorial price discrimination cases, this is not the case of a big dog in a particular locality trying to gobble up one or two small local dogs. And your answer to that is that nationally it is the big dog, that the three strongly entrenched local competitors were not very strong nationally? Is that your answer to (310) it, in capsule form?

Mr. Mayer: Yes, sir.

Hearing Examiner Hier: But you do concede, do you not, that the three local competitors—Falstaff, Griesedieck Western and Griesedieck Brothers—are far more strongly entrenched, competitively speaking, than was Mr. Moore out in—where was it, Arizona, New Mexico—or this chap out here in the peetin business in Washington, and the other cases, such as the Puerto Rican Tobacco case?

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Mr. Mayer: If it is based upon the relative market share of the competing breweries, their market share in the St. Louis market is greater than the market shares of the various sellers to which you have alluded. I am not sure about the market share of this peetin seller up in Seattle, exactly.

Hearing Examiner Hier: What I mean is—

Mr. Mayer: Of course, every individual market share, regardless of its size, is important to the competitor, as it is important to Anheuser-Busch.

Hearing Examiner Hier: This business, though, is pretty well entrenched over a regional area?

Mr. Mayer: Yes, sir.

Hearing Examiner Hier: And they were suffering financial handicaps in conducting their business, as far as I know from this record; is that right? I mean, none of them (311) were in failing circumstances by any means.

Mr. Mayer: Except for a major loss of sales in a major market for every one of these competitors.

Hearing Examiner Hier: I understand that. But they could have lost every case of beer in St. Louis, all three of them, and still not gone bankrupt; is that not correct?

Mr. Mayer: I wouldn't agree to that; that would be pure conjecture. And besides, one of these companies does 35 per cent of its business in St. Louis; it certainly is a major market for all three of these competitors.

Anheuser-Busch can't go into a central market with 35 per cent. This is a major market for these competing sellers. They don't have 95 markets with a 5 per cent share in each to make up this business loss in St. Louis.

Hearing Examiner Hier: I understand your point.

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Go ahead. I am sorry I interrupted you. But it seems to me only fair that I should annoy you as much as I have annoyed Mr. Barton. Go on.

Mr. Mayer: I think it is interesting to recall that the testimony of Mr. Meurer on the relationship of the Budweiser price reduction and the loss in sales of the Falstaff Company—I believe his answer to the Examiner's searching question was that he couldn't think of any other factor that was involved in this loss of sales but price. I think that is a fair characterization of his statement.

(312) And I think that is going to become more important as we go along. I think these figures show a very effective way, for instance, for a competitor to put a lid on the increased sales of another competitor. It shows the nation's leading seller by a price reduction maintaining Falstaff, keeping them from the normal increase which this market had shown there they were gaining at that time.

I think it is pertinent that the nation's leading seller was increasing its sales in the St. Louis market prior to this price reduction. I think, too, that the projection of Mr. Meurer was extremely accurate, and in my opinion discloses not only a loss in sales to the price reduction, but certainly offering a tremendous number of cases in his projection for the months of July, August, made prior to any price reduction being announced by Anheuser-Busch.

Now, I think, proceeding on Respondent's Exhibit 18, we should comment somewhat on the Griesedieck Brothers Company. Admittedly the tabulation shows that the Griesedieck company was suffering losses in sales. And it was also suffering a loss in market share prior to Anheuser-Busch's price reduction.

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However, the greatest loss in the preceding 18 months to the price reduction by the No. 1 seller in the nation was a 24.8 per cent loss of sales. Subsequent to the price reduction the decline ranges from 30.5 to 55.6 per cent.

Hearing Examiner Hier: You are talking about (313) Griesedieck Brothers or Griesedieck-Western?

Mr. Mayer: I am sorry, Griesedieck Brothers is what I am talking about, they are the third set of figures on the exhibit.

The testimony of Mr. Ens, the sales manager of this company, said that the sharp decrease was due in large part to the Anheuser-Busch price reduction. What more could an honest man say when his figures showed already a loss in sales, but certainly accelerated by the price reduction of Anheuser-Busch?

It also shows that whereas in the year 1953, before the prices were reduced, or this market disrupted by Anheuser-Busch, the market share of the Griesedieck Brothers was 14.4 per cent, and after the market disruption the over-all market share falls to 10.2 per cent.

I think it is perhaps a little more graphic, however, to examine the month-by-month sales of the Griesedieck Brothers company in relation to the date of the price reduction of Budweiser. In the first five months of 1954 the loss in sales to the Griesedieck Brothers company was 70,515 cases. Subsequent to the price discrimination by Anheuser-Busch in June, the seven months' loss was 423,418 cases, quite a remarkable acceleration, coincidentally, about the time of the nation's leading seller's price reduction.

Hearing Examiner Hier: Without going into all these figures, your point, in substance, is that—if Mr. Barton

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(314) is correct that Griesedieck-Western was already falling down the stairs, your claim is that Anheuser-Busch was standing on the landing and gave them a further lead, is that it?

Mr. Mayer: Yes.

Hearing Examiner Hier: There is no use in going into all these figures, I spent all afternoon yesterday going over them.

What do you say about this discrimination?

Mr. Mayer: May I comment first on this, and then I will be glad to discuss it.

We have heard a great deal today about the sad economic plight of the nation's leading seller, and I think in the light of the economic situation in which Anheuser-Busch found itself, we should consider for a moment the situation that you have just described. Here in St. Louis and St. Louis County, which provides them a major market for their distribution, are three sellers classified by the witness Hallquist as regional sellers, Griesedieck Brothers and Griesedieck-Western. On an overall basis, in 1957 they ranked thirteenth and twenty ninth, and their sales combined won't come to one-half the sale of Anheuser-Busch.

They were faced with a loss in sales. Like Anheuser-Busch, perhaps with less than 19 vice presidents, but nevertheless with the personnel available to them to do summaries, they make checks, they make plans to arrest decline (315) in sales. They explore all possibilities—maybe without the resources of different-sized containers and different brands of beer. But all the resources available to them, to arrest their sales losses in this important market in their distribution.

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Now, how many legitimate plans and lawful ideas went out the window when, Boom! on the 21st of June Budweiser dropped its price?

They weren't hurried off the landing, described by the Examiner, they were belted off the landing described by the Examiner.

And it is interesting to note by virtue of its own advertising that Budweiser became the nation's leading seller in 1953 without resorting to this type of pricing in any market in the United States.

Now, I'll admit Budweiser's problems economically are gigantic, because it is a gigantic company. But how insignificant do they become when you compare this little stratagem of price reduction to the economic situation that Griesedieck-Western and Griesedieck Brothers found themselves in when this price cut was made?

I think another potential of this price reduction that hasn't been emphasized is the sudden reduction below cost and sale of Budweiser by a supermarket.

Hearing Examiner Hier: Below cost?

(316) Mr. Mayer: Yes.

Hearing Examiner Hier: You mean the cost of acquisition by that Schenberg outfit?

Mr. Mayer: Yes, sir. There are two instances—at least one—in which the supermarket sold the premium-priced Budweiser at less than the ordinary price.

Hearing Examiner Hier: It was \$2.29, wasn't it?

Mr. Mayer: \$2.29.

Now, this was not in the Budweiser scheme of things. The quote is, "We made every effort to discourage this", but it shows an inherent tendency to lower the price, because the small retailers were—it shows the tendency to

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reduce the price to the retailer, he couldn't afford it. And this situation of the nation's leading seller selling below cost at a loss in this particular area merely demonstrates the potentiality of a reduction of a nationally advertised beer being sold at premium prices.

I think, too, not to bore you with figures, they are all here for us to examine, but the Griesedieck Brothers dropped to an all-time low, for instance, while at the same time attempting to arrest their loss of sales subsequent to Budweiser's price reduction, they dropped to an all-time low in the St. Louis market. And that, in my opinion, represents the permanent injury and the permanent damage done to the competitors by Anheuser-Busch in this St. Louis area, although (317) on an over-all broad basis our argument is based primarily on the potentialities of injury resulting from this type of pricing. Respondent admits that it instituted this to secure a larger market share, so I think we won't have too much difficulty in this case—and I think it is extremely important—in showing a causal connection between the Budweiser price reduction and the loss in sales, the actual loss in sales of the various competitors in this area.

Hearing Examiner Hier: Do you ascribe any punitive motives to this price flurry or raid or foray, or whatever you want to call it?

Mr. Mayer: Other than that a man has to presume, I guess, or to foresee the natural and probable causes of his argument. This record does not disclose it.

Hearing Examiner Hier: Do you claim the statutory effect on competition as a result of the first drop in price from \$2.93 to \$2.68 on January 4, 1954?

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Mr. Mayer: No, the price discrimination is charged in the May 1952 reduction of prices resulting ultimately in the drop in prices on top of the competitors' prices in St. Louis.

Hearing Examiner Hier: What is this discrimination? Answer me that point.

Mr. Mayer: First of all, would you mind asking me the question again about just what you want to know about it, (318) sir?

Hearing Examiner Hier: Mr. Barton says, if I understand correctly, that there isn't any discrimination as the statute provides here, because your case is founded on Budweiser selling at a premium price, not a given premium price particularly, but a regularly established premium price.

There has been no witness in this case, if I recall correctly, that said there was a regularly established premium price. They did say that Budweiser sold at a premium, which premium varied in various markets. What do you say about that as a legal proposition?

Mr. Mayer: The complaint does not intend to allege that there is a constant regularly established differential existing between Budweiser and the price of other beers in all markets at the same time. The regularly established price means that those prices were established by Budweiser in the normal and regular course of its business.

Hearing Examiner Hier: Differentials over what?

Mr. Mayer: Over local and regional beer prices.

Hearing Examiner Hier: And your contention is that there is such a differential established by Budweiser in every market in the United States over local beers therein selling; is that right?

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Mr. Mayer: Generally speaking, there obviously are going to be, in some markets somewhere, instances in which the (319) prices are the same.

Hearing Examiner Hier: And you aren't talking about the price of Budweiser when sold to the retailer? Or is that the price you are talking about?

Mr. Mayer: That is the price I am talking about.

Hearing Examiner Hier: I don't believe this record reflects whether or not the wholesaler was required to charge a price fixed by Budweiser in his resale to the retailer.

Mr. Mayer: It does not, it merely contains the price sold to the wholesalers by Budweiser.

Hearing Examiner Hier: You must mean in the case of wholesalers that first price.

Mr. Mayer: Yes, sir; and in the case of the retailer, the wholly owned branches, the 18 examples set forth in the record showing the different prices to the different retailers as compared with the price to the retailer in St. Louis, Missouri.

Hearing Examiner Hier: Then your case gets down to this, does it not, that Budweiser charged a premium of X amount, unknown amount, in Louisville, we will say, that is close to St. Louis. And it did in St. Louis in 1953. And in January of 1954, and subsequently in June of 1954, it cut its price in St. Louis, but did not in Louisville.

And thereby you say it discriminated against its customers in Louisville in favor of its customers in St. Louis. (320) And by such discrimination diverted business from its competitors, whoever they might be, dealing in St. Louis.

Mr. Mayer: That is right, sir.

Hearing Examiner Hier: That is his contention.

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The discriminatees, the people who are discriminated against, are the retailers in Louisville, is that right?

Mr. Mayer: That is right.

Hearing Examiner Hier: They were not injured?

Mr. Mayer: No, sir. The discrimination is between the customers of Budweiser, with the causal effects of flowing in injury to the competitors of Budweiser.

Hearing Examiner Hier: I know it is a first-line injury case, but I just wanted to probe a little further.

Mr. Mayer: If I may, Mr. Examiner, I would like to comment for a moment or two on what I think is a misconception of the law. And I think it is well to point out that in this record we urge that the Examiner is, practically speaking, compelled to find a causal connection between the Budweiser price reduction in June, and the loss in sales of its competitor subsequent to that price reduction in St. Louis.

Hearing Examiner Hier: You say a causal connection, you do not claim it is the sole?

Mr. Mayer: I would say certainly the major causal connection; there might be others, but in the opinion of the witness from Falstaff—I can't think of any other factors (321) he said—and I would like to point this out. There is no decided case in the courts or before this Commission where the causal connection between the price discrimination and loss of sales was established in which an order was not issued, or a judgment rendered. And the converse of that is true, that there is no decided case in which a causal connection has been established that has ever been dismissed.

Hearing Examiner Hier: Do you agree with counsel that there are only six cases in point?

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Mr. Mayer: That is approximately right, yes, on the pure idea of area price discrimination, yes, sir.

For instance, there is a distinguishing feature between the General Foods decision and the Purex, which seems to be relied upon pretty heavily by the respondent. The majority opinion in General Foods is based in the perhaps last five or six paragraphs of Judge Gwynne's opinion, in which he states:

"One, the primary competitor increases its sales; two, the secondary competitor increased its sales; and three, I cannot find any causal connection between the competitor going out of business in Seattle and General Foods' price discrimination."

That is the entire tenor of the Purex decision, with which I happen to be somewhat more than a little familiar. The Examiner cannot find any causal connection between the (322) Purex deals and a loss in sales by competitors.

Hearing Examiner Hier: Could you, when you went over that record?

Mr. Mayer: That is not my case at the moment.

Hearing Examiner Hier: That is not a fair question. Skip it. I just wondered.

Mr. Mayer: But I just emphasize that when a causal connection has been established, orders have been issued.

Hearing Examiner Hier: There is no use in belaboring that point, either. I am satisfied on this record as it presently stands, gentlemen, that this price dropping of Anheuser-Busch on its Budweiser beer is certainly a major contributing cause to the loss of sales in the St. Louis market.

I don't say it was only that cause.

Mr. Barton: May I be heard on that, Your Honor?

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Hearing Examiner Hier: We will get around to it in a moment. I am saying that you needn't belabor it point; you can bat it around all you please later, but you needn't go into that, I am satisfied with this tentative at least.

Go on, take the next one.

Mr. Mayer: I merely wanted to conclude with read from respondent's brief, not to belabor the idea, but it paragraph four on page 37. And I won't read it now full, but I wish to stress:

(323) "The lower price is of no consequence the determination of the injury question. For example, in Puerto Rican, as well as in Mead, neither the volume of the increase in sales nor the percentage increase in the share of the market was advert to in the opinion. On the other hand, in both Pui and General Foods, respondent's share of either the local or national market, or both, was shown to be increased."

But again I wish to point out, as this brief fails to note that in those cases there was no loss in sales which could be attributed to the price discrimination.

I think that is all I have, Mr. Examiner.

Hearing Examiner Hier: I don't quite agree with you in the General Foods case. I think there was a loss of sales, and I think there was a causal connection there. If the Commission had not, and I am bound by that.

Mr. Barton, there was one thing I want to ask you before you get started in belaboring that point again. A Kaiser-Busch's case was issued by this Commission in complaint right on the heels of the General Foods in

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That, to me, is very persuasive; that, one, they thought they were plowing new grounds, not the ground of the six cases that have been mentioned; two, that they must have throughout an inquiry, full-dress inquiry into this particular situation, that such an inquiry was warranted, in spite of the facts, of (324) the points that you have made in your brief, that it is not the big dog locally, I mean the big dog locally or nationally, running out the small fellow.

Mr. Barton: It couldn't be, as Your Honor recognizes.

Hearing Examiner Hier: And certainly other distinctions which you have drawn there, which I think are, in the main, valid. They must have thought that, You are, perhaps, aware—I don't know whether you are or not

that this presently sitting Commission—I mean, as of the last five days, frowns on motions to dismiss at the close of the government's case.

I will grant you that at the time this complaint was issued, that might not have been the situation, whether it is or not.

Mr. Barton: Certainly they had affirmed a number that had been granted.

Hearing Examiner Hier: That was by a different Commission.

Now, you go on with your argument.

Mr. Barton: Your Honor, I point out on that subject, I don't know why the Commission issues complaints. Of course, it is public knowledge that it usually issues complaint when someone complains and files some kind of papers, at that it is one avenue of complaint being issued.

But I would point out to Your Honor that it seems a (325) needless waste of time for all concerned to go on to

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further hearings if the fact is that on this record government counsel has failed to make a prima facie case, whether on the price discrimination point, or the injury to competition point.

Now, I would point out to Your Honor on this price discrimination point just briefly that there is no evidence in the record, and indeed it is not a fact, that there is any kind of similarity of differential in the various markets between Budweiser and the brands which are competing with Budweiser, call them regional or local—incidentally, those terms are undefined in the complaint, and they are practically undefinable. But, whatever we decide to define them as, there is no kind of a regular differential.

Hearing Examiner Hier: Need there be?

Mr. Bartop: I think there need be, Your Honor, for this reason. How could Anheuser-Busch—suppose at the end of the case we find that there was a discrimination, and you issue an order, and you say, you shall not discriminate. Obviously there should not be on this record that Anheuser-Busch had to charge the same price in Washington, D. C., as it charged in St. Louis. They are not complaining of that.

Hearing Examiner Hier: I was going to get to that point later on.

If I deny this motion, Mr. Mayer, you are going to have to do some thinking about that order. I am certainly not (326) going to be a party to the Robinson-Patman Act being used to enforce cement to solidify a premium price. It is impossible to enforce it. I don't see how you can do it. But that is a few steps down the line.

Mr. Barton: I don't think that is the major issue here, because I think on the record there is a failure of proof so far as the effect on competition is concerned.

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Let's go through this matter on the effect of competition of the various brewers in St. Louis.

As Your Honor pointed out, these brewers are all regional, at least they all sell over a wide area. They all sell the major part of their production outside St. Louis. I note that none of them testified that they lost accounts as a result of this. Your Honor remembers in questioning one of the witnesses he corrected your question in his answer, when you referred to lost accounts, he said, "We didn't lose any accounts".

Hearing Examiner Hier: I don't think that is too important, business.

Mr. Barton: That is right. Everybody has a full-blown distribution system in St. Louis. They retained it throughout the period of their competition by Budweiser, they had it when the price reduction was rescinded.

Now, I want to point out further that in the case of each one of the St. Louis competitors there are other reasons, (327) major reasons for this drop off in sales, in addition to the price reduction.

Let's take them up one by one.

Hearing Examiner Hier: You can go over them if you want to.

Mr. Barton: I just want to make sure that my point is understood—I am sure it is—but I want to make sure that it is completely understood.

First of all, let's take the over-all St. Louis picture. The net effect of the price reduction by Budweiser in St. Louis is that for the first time in ten years the market was opened up so that the outsiders could get any kind of a respectable share of the market. In other words, all

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others claimed from something like 4.8, which they had in 1953, and had had for six or seven years since the merger process had taken place, to around 7 per cent after the dust settled in 1955.

And now, I say to you, Your Honor, that is a desirable development in competition in the St. Louis market.

Hearing Examiner Hier: Are you telling me that Schlitz climbed?

Mr. Barton: As a matter of fact, yes.

Hearing Examiner Hier: It maintained its differential and did still climb?

Mr. Barton: It got into the market more in that (328) period. Now, the figures are not in the record, so far as Schlitz are concerned, except their business in the 905 store. And if you will recall, Schlitz sold more in 1954 in St. Louis than it sold in 1953.

Hearing Examiner Hier: At a premium?

Mr. Barton: No, the record doesn't say what it sold at.

Hearing Examiner Hier: That is what I am wondering. It would be very interesting to find out that, whether Schlitz maintained its premium or not, and increased. There is something funny about that price differential situation down there, and that is a fact.

Mr. Barton: The other thing to know is that when Weissman testified, he testified that five out of the seven brands he handled—

Hearing Examiner Hier: Yes, I remember.

Mr. Barton: —increased in 1954 over 1953, and Anheuser was the other brand.

Hearing Examiner Hier: His testimony isn't detailed enough to know on what price behavior they increased.

Mr. Barton: Certainly, in so far as he testified to 905, he testified to the buying price.

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Hearing Examiner Hier: That was a house brand, anyhow.

Mr. Barton: Well, it is a brewery brand, private brand label, but he testified to the price of laid in cost, \$220, and it was comparable to the price of other beer in the St. Louis area, somewhat lower, I think.

But in any event, the net effect of this price reduction after it was all over was that the St. Louis market was more competitive than it had been for ten years previously. And I submit to Your Honor that in a Robinson-Patman case, where you are asking the question of effect on competition, that is a salient, important point to take into account.

(330) Hearing Examiner Hier: Let's stop right there, Mr. Barton. I have been listening to that all week out in Chicago in another case. I grant you that when you get down to prognostication about what the effect may be, whether it will lessen competition substantially or tend to create a monopoly, and so forth and so on, the Commission is required by law, and consequently we also, to prognosticate and look forward where there has been no actual experience.

In a situation where you have had years of actual experience with a volume discount or quantity discount or cumulative discount, or something of that sort, the best evidence of what will happen, perhaps, is what has happened while that has been in force. But that has to be in force and operative in the market for a large number of years.

I can't say in this case that nine months is enough to prognosticate what would happen if this price theory or experiment was continuing down to the present day.

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Mr. Barton: Your Honor, as a practical matter, I think the figures pretty well indicate that the percentage sales of Budweiser were going down, in eight months they were going down. Now, how far they would have gone down I don't know. That is purely speculative.

But it certainly doesn't warrant the conclusion which the Government is seeking to put on it, that they captured 40 per cent of the market and retained it—and would have (331) retained it indefinitely—because it just isn't true.

Hearing Examiner Hier: That is the point exactly. He is demonstrating that they do capture, they had the economic power, the advertising resources and ability and ingenuity and imagination, and what have you, to capture it.

Now, whether they could have retained it or not, I am left to guess. I don't know.

Mr. Barton: I don't think you are left entirely, Your Honor, because the figures show that in the six months' period they didn't gain, they lost from 38 to 33.

Hearing Examiner Hier: Yes, they have been a little off, and gone back up, too. You can't put your finger on that, really.

Mr. Barton: Your Honor, if these figures on the beer market for ten years in St. Louis show anything, they show a market where there is great flexibility. One beer may have a good advertising program one year and shoot right up; next year it has a poor run of beer, it goes down. I want to get to that in connection with these other competitors, because I think that is in the picture here, and Your Honor shouldn't overlook it.

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Hearing Examiner Hier: Let's take GW, for example. They were sliding.

Mr. Barton: They were sliding, and sliding badly. When Mr. Sewing was on the stand, he was asked whether the (332) trend had any part in his reduction of size, and he said there was a slight trend running against GW prior to the price reduction. But I submit to Your Honor that the record here discloses that he was somewhat less than candid in characterizing it as slight.

Hearing Examiner Hier: That may be true.

Mr. Barton: In fact, GW was dropping, sometimes to such an extent that Smith testified they falsified their figures, which they were supplying to the national publication, in order to cover it up.

Hearing Examiner Hier: But your own figures show that they were dropping.

And after this price cut by Budweiser they didn't drop, they fell from 100-and-some-odd-thousand decrease to 400-and-some-odd-thousand; I can't remember exactly.

Mr. Barton: Your Honor, on a percentage basis—

Hearing Examiner Hier: I am not talking about percentage, but actual case counts.

Mr. Barton: All they showed is that they continued to drop. If you will look at Chart 1, you will note that their drop had been of such a nature that their position at the end of this period is approximately where it would have been had there been no price reduction. In other words, they are approximately where they would have been if their 1952 trend line had been continued without the price reduction.

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(333) There has been no permanent market position changed there. The fact is, Griesedieck Western was going down rapidly, compared to its previous dominant position of over 40 per cent in the market.

Now, it is significant to me, Your Honor, that the only witness through whom Government counsel attempted to get anything in the record as to over all injury was through Jones. You remember investment banker Jones?

Hearing Examiner Hier: I remember Jones getting mad at me for using him as an example, yes.

Mr. Barton: He got on the stand and said—apparently, he was saying that the Budweiser reduction in price had an effect upon their dividend declaration and the deduction of the dividend declaration.

Hearing Examiner Hier: You can forget that; I don't care to hear that. I am looking at sales. Too many factors enter into this dividend declaration to go into that.

Mr. Barton: I take it, then that there is no proof here, so far as we are concerned, of injury to competitors in the sense of injury to their ability to compete.

Hearing Examiner Hier: I wouldn't say that. Loss of sales certainly might injure them.

Mr. Barton: Well, as Your Honor pointed out, all of these competitors who have lost all of their St. Louis sales, their ability to compete was not impaired.

(334) Hearing Examiner Hier: In St. Louis County? It most certainly would be.

Mr. Barton: Let me point out, if they retained their customers, as they do—

Hearing Examiner Hier: They couldn't have lost all their sales if they retained their customers.

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Mr. Barton: It is a purely academic question. The fact is that, as a practical matter, no reduction that Anheuser-Busch makes could take away enough of the business of the St. Louis competitors to injure them.

And, what is more important, it is just not in the economic possibilities here that Anheuser-Busch could attempt to do what has been done in all of these cases where territorial price discrimination has been in effect, namely, to attempt to drive out the local competitors, then raise its price to take advantage of the effect of the discrimination. That just isn't in the cards here.

The fact is that Anheuser-Busch's reduction was solely to get more business at a time when they were falling off rationally, to try to even out the sales picture and get some answers to the question of what effect the reduction in price would have on sales.

They got those answers; they went up—incidentally, the differential is today 45 cents as compared to 58 cents, in fact it is 30 cents compared to 58 cents, but it is partly (335) the result of the St. Louis competitors coming up in price after Anheuser-Busch went up in price, which is another point on this so-called maintenance of a regularly established differential, that the differential has changed not only by action of what Anheuser-Busch does but by action of its competitors, as would be expected.

Now, so far as the Griesedieck Brothers is concerned, it is interesting to note—well, so far as Griesedieck Western is concerned, again, you will recall that they sold out at \$19.50, the highest price which the stock had been selling for back in 1953 before any price reduction.

So, there was no permanent—no injury to the company from any price reduction by Anheuser-Busch.

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Now, let's take Griesedieck Brothers. In the first place, Griesedieck Brother's sales had been declining over a five-year period before 1954. They went from 18 per cent of the market in 1949 or 1950, to 14 per cent, as I recall it, in 1953. They lost no more in 1954 over 1953 than they had lost previously.

In other words, there were other factors that were present with regard to Griesedieck Brothers.

Hearing Examiner Hier: I don't follow that trend you make. You start with 1945, as I told you I would, and you get a fairly even trend for those years, for 1948 a precipitate dip of one-third, down to 12.3; some improvement in 1949; considerable (336) improvement in 1950; about the same in 1951; with the same in 1952; and then you have a 2-point or even 3-point dip in 1953. But they wind up in 1955 with only 7.36, whereas they—I am looking at your Table 1—

Mr. Barton: There was no price reduction in between 1952 and 1953.

Hearing Examiner Hier: No, but there certainly was one between—they declined 3 points, 3 percentage points, in that year, didn't they?

Mr. Barton: From 1953 to 1952?

Hearing Examiner Hier: Now, from 1953 to 1955 they declined 50 per cent, or 7 percentage points. It is his point again, his point again is that they were sliding, but you put a little grease on the rails.

Mr. Barton: Your Honor, the fact with regard to Griesedieck Brothers is that, as is pointed out in the brief, they lost more outside St. Louis than they lost in St. Louis. Now, if the reason for their loss was price, how can the outside St. Louis loss be explained?

Argument on Motion to Dismiss

Hearing Examiner Hier: It can be explained very simply, it seems to me, although it is not in this record. Maybe somebody cut the price outside of St. Louis somewhere; I don't know. It is not in this record.

Mr. Barton: It certainly isn't.

Hearing Examiner Hier: That is purely in the air.

(337) Mr. Barton: And the witness—if that had been the fact, he would have testified to it, too.

Hearing Examiner Hier: Not necessarily.

Mr. Barton: Certainly, Budweiser didn't cut outside of St. Louis.

Hearing Examiner Hier: You lawyers always have the habit—which I used to do, but which I detest as Hearing Examiner—of always avoiding the \$64,000 question and the \$32,000 question, and I don't always think of it, and so we are left in the air on it.

Mr. Barton: As I recall, you answered one of those \$64 questions. My colleague has stated to you several times that Meurer, the Falstaff witness, said he didn't know any reason why Falstaff lost in that case. Do you recall?

Hearing Examiner Hier: I don't recall.

Mr. Barton: Here is what Mr. Meurer testified. It was in answer to a question by Your Honor, on page 177 of the record:

“I would like to ask you this. I don't know whether your experience qualifies you to answer, or maybe there isn't any answer. Is there anything reliable that I can go on to indicate what percentage of consumers are shifters, that is, who buy beer solely on a price basis without regard to brand or advertising or TV or any of the rest of the sales efforts?”

Argument on Motion to Dismiss

(338) He answered:

"I think that would be the \$64,000 question. I think we would give that to find out."

I submit to Your Honor that Meurer did not testify that price was the only basis for changing customers.

Hearing Examiner Hier: No, I don't think he testified to that. But I do think he inferred rather plainly that his loss of sales in the St. Louis area was due to the Budweiser price cut.

Mr. Barton: Well, Your Honor, he said that there was a temporary sampling by Budweiser customers, by Falstaff customers, but he cleverly limited it to temporary, because he had to.

As a matter of fact, if you look at the figures, Falstaff's sales in December of 1954 exceeded their budgeted sales for December, 1954—in other words, the budget they had gotten up the first part of the year—their position was good, they continued to sell a lot of beer, despite the fact that Anheuser-Busch was selling at the same price they were, and there certainly is no injury to competition so far as Falstaff is concerned.

I want to point out further with respect to Griesedieck Brothers that, as an exhibit in the record shows, Griesedieck Brothers changed its product in the early part of 1954. It is in Exhibit 24-A, a letter from Edward J. Griesedieck (339) to his co-workers.

Hearing Examiner Hier: Let's see it. I don't remember that one.

Oh, yes: "We don't contemplate—"

Mr. Barton: But that isn't the important part of the letter. He said:

Argument on Motion to Dismiss

"We have put out a new product, we have deliberately cut out the sales of our old product in order that you will not be overstocked with it."

Now, the plain fact is that it is logical to assume that the reduction in Griesedieck Brothers' sales in the latter part of 1954 was affected as much by the new product, which didn't go over, as it was by their deliberate cutting down of sales in the early part of 1954, which took effect in the latter part of 1954.

And I would put out farther to you that that ties in with the fact that Griesedieck Brothers' sales losses were greater outside St. Louis than they were in St. Louis. That is a logical explanation of their sales difficulty.

Another point: On draft beer, there was no change in the consumer price of draft beer. And yet Griesedieck Brothers' sales of draft beer in St. Louis in 1954 declined as much as their packaged sales declined. There was no price change there, and yet they declined.

We submit to your Honor that those four facts demonstrate (340) that there is no proof in the record that Griesedieck Brothers' loss of sales is attributable to Anheuser-Busch's price reduction.

Now, I would point one further thing out. Since March of 1954, when Anheuser-Busch's price was up, and there was a 30-cent differential, all of the St. Louis competitors have come up. Griesedieck Brothers' hasn't. Apparently what is happening is that Falstaff and Carling are taking Griesedieck Brothers' customers at the same price. Apparently there is some reason at work for that change in the market situation.

Argument on Motion to Dismiss

But I submit to Your Honor that under those circumstances a decrease in sales by Griesedieck Brothers should not be assumed to have been caused by Anheuser-Busch's selling at the same price as Falstaff, Stag, and Griesedieck Brothers.

Hearing Examiner Hier: Tell me this, Mr. Barton: Anheuser-Busch has a very smart research staff. I know that from previous experience. Certainly, these factors that you are now mentioning, indicating that these competitors were losing business anyhow, must have been known.

If that is a fact, you would get the business in the normal course of events, wouldn't you?

Mr. Barton: No. Falstaff was getting it. Falstaff was the one who was gaining in the St. Louis market. Anheuser-Busch had a slight gain.

Hearing Examiner Hier: If that is the case, then (341) your price cut must have—what shall I say?—put the late March frost on Falstaff's normal—

Mr. Barton: As a matter of fact, it didn't. It didn't even stop it. It didn't stop it, because their sales in the latter months of 1954 exceeded their sales in the latter months of 1953.

Hearing Examiner Hier: Let's take a look again, because, as I say, I am about dizzy with these figures.

Mr. Barton: As a matter of fact, you notice in November, 1954—

Hearing Examiner Hier: I have got to—whole thing up here, that is what I am looking at.

Mr. Barton: In 1954 they sold 3,800,000 as compared to 3,750,000. They had a better percentage of the St. Louis market in 1954 than they had in 1953.

Hearing Examiner: 27.41, that is only six months.

Argument on Motion to Dismiss

I see what you mean. I was looking at this six-months' figure.

Mr. Barton: There is no question about it. Falstaff was picking up the major portion—they apparently had a good advertising program, a good sales promotion program, and they had momentum which has carried them forward not only in St. Louis but a lot of other places.

But I submit that on the over-all, Your Honor, in (342) this case there is no question but that Falstaff is not injured, they don't have any injury to competition that would be sufficient to provide a prima facie case to the Government.

Griesedieck Brothers, there are many other explanations for their decrease in sales. And the same is true with Griesedieck Western.

So that there is no—assuming even that you can equate injury to an individual competitor to injury to competition, which I would not think is borne out by the cases, there is no proof of injury to any competitors.

Moreover, on the over-all, it must be recognized that a brewery or any other businessman who is faced with a dropoff in sales must be free to experiment with means that are available to him to increase sales.

It is recognized in General Foods, it is recognized by economic writers like Corwin Edwards, for example, that such conduct is a legitimate course of conduct, and is the very essence of competition, rather than being something that should be looked upon with suspicion or misgivings by the Commission.

Hearing Examiner Hier: No case so holds yet.

Mr. Barton: No case so holds?

Motion to Dismiss Renewed

I would take it that in General Foods—

Hearing Examiner Hier: That is a dissent.

Mr. Barton: That is a dissent but, after all—

Hearing Examiner Hier: I say, it is new ground (343) here in this case. This case ploughs new ground in several of its aspects, as I see it.

Mr. Barton: I think it may, very well.

Hearing Examiner Hier: That is one ground. Another ground is whether or not the classic pattern of the big, well entrenched, strong competitor running over small business—such as this fellow Moore who ran his bakery down there—whether that is the only pattern.

Mr. Barton: That is certainly the only thing that reported cases today supply.

Hearing Examiner Hier: And thirdly, I think it ploughs new ground, or will plough new ground, or has ploughed new ground, whatever way you want to put it, in the sense of loss, recovery, leaving only potentiality, which might have happened if this thing had continued, or what might happen if it was put into effect in other areas.

Have you got much more to say?

Mr. Barton: No, Your Honor.

I only want to say that last point that sufficient unto the day that that was done, that a case should be brought and an order should be entered, that on this record on the case as it has progressed thus far, there is no evidence of the type of effect which should be construed to constitute injury to competition, and that for that reason principally, as well as the lack of showing of discrimination, the complaint should (344) now be dismissed.

Thank you, Your Honor.

Colloquy

Hearing Examiner Hier: Mr. Mayer, I am going to deny this motion, for three or four reasons. But I say to you now, you have got a mighty slim case here as it now stands. Now, what comes after this, I don't know.

The reason I am going to deny the motion—the reasons are perhaps three. First of all, I am satisfied, Mr. Barton, Mr. Baker, and the rest of you gentlemen, the Commission issuing this complaint, when it did, on the heels of the General Foods case, intended to have a full dress inquiry. And I am satisfied, therefore, that if I dismissed it, and he took it upstairs, which he naturally would, back it would come seven or eight months from now, and you would have to go through with it anyhow.

My record of reversals is quite good.

The second major reason, or perhaps the third reason, is the potentiality involved here. This record presents a very striking and dramatic display or exercise of economic power. What would have happened if this was allowed to continue? At the present moment, that decision rests in the sole hands of Mr. Busch. Should it be allowed to rest there, or should it be put into public hands?

Supposing this sort of thing was to take place in Minneapolis or Atlanta or some other place, and the pattern was (345) repeated all over the country? Can it be said that there would be no effect on competition very broadly? I have got my doubts.

Thirdly—or fourthly, it depends on how you assess these reasons. I am not satisfied with this testimony that Mr. Hallquist gave about this experimenting business. He gave me—and he is sitting right back there now—he gave me the impression that he was testifying, Mr. Barton, like a man walking a tightrope, with a highball in each hand.

Colloquy

He gave me the impression of not being too sure of what he should say and should not say.

I am going to hear, and I am going to hear it from the respondent's side of the case. I want to know also what economic reasons exist, if any, why this practice would not be resumed. And I want to know something about this testing business. There are a lot of unanswered questions on this record, a great many.

I am not going to go into it, but I think you know pretty well what they are. There are a lot of unanswered questions on both sides of the case, but particularly on this one.

I say this testing the market, this experimenting to see what you can do and what you can't do, is new. It has never, to my knowledge, been litigated.

And it seems to me that before a decision is made on (346) it that you have to have a considerable background there. And I want to know how it was gone into and why it was necessary to do it in St. Louis County, why was that done. We have his answer, but I don't think it is the full story.

I think those are the major reasons why this case should go to proof, at least in my opinion.

I have got considerable doubt about what you are going to do with this case on final submission, particularly with this order that you have appended to the complaint. But that is up to you.

I am satisfied, gentlemen, that if I were to dismiss this case that it would come right back down here again—not because I am afraid of it coming down again, but because we lose on it, we gain nothing by that procedure.

Mr. Barton: Your Honor, of course, it could be said that there is some doubt in Your Honor's mind—

Colloquy

Hearing Examiner Hier: There is some considerable doubt.

Mr. Barton: It might be advisable to have the Commission's thinking on that question.

Hearing Examiner Hier: No. They prefer to have a full record sent up to them, Mr. Barton—you know as well as I do—and then it doesn't come back, and I am turning you fellows loose to make a full record.

And I say this to both of you: As this case goes on, (347) the rules of evidence are going to be pretty well relaxed; you have got to get a pretty full picture here of both sides.

If I recall correctly, you said you might go ahead in Washington the second week in November, the week of November 14?

Mr. Barton: Your Honor, we will go ahead in Washington. The only question is as to the fixing of the time. At one point, I think I indicated we would be ready to go ahead the latter part of October or the first of November. I cannot commit myself to do that now. I would like to make it the latter part of November.

Hearing Examiner Hier: Off the record.

(Discussion off the record.)

Hearing Examiner Hier: On the record.

We will adjourn to the week of November 28, here in Washington.

(Whereupon, at 12:15 p.m., the hearing was adjourned as above noted.)

Transcript of Hearings

(348)

Monday, December 12, 1955.

Met, pursuant to adjournment, at 9:00 a.m.

Before:

Frank Hier, Hearing Examiner.

Appearances as before.

(349)

PROCEEDINGS

Hearing Examiner Hier: Go ahead, gentlemen.

Mr. Barton: Your Honor, I offer in evidence Exhibit RX-52, which is a collation of Griesedieck Brothers advertising from April, 1951 to April, 1955, and in that connection, since the subsequent testimony will concern this matter for a little while this morning, I call attention to the advertising starting on pages 65—the advertisement on March 1, 1954—and continuing on through 1954; and call attention in particular to an advertisement on page 102 in August, on August 11, 1954, which concerns an advertisement of a special process Krausend Beer.

(The document referred to was marked Respondent's Exhibit 52 for identification.)

Mr. Barton: Before proceeding with the next witness, your Honor, I would like on the record to state that at a subsequent session the defendant will introduce as an exhibit the summary of a survey which was testified to by Mr. Hallquist on the original hearing. The survey form went into evidence as Respondent's Exhibit 12. That was

Robert T. Beaman, for Respondent—Direct

a survey conducted in April, 1954, and there will be introduced in evidence a summary of the result of that survey. The exhibit is as yet unmarked.

It is not planned, however, to introduce the actual returns as they came from the field, but I would like to at this time turn over to Government counsel the summary which will be (350) introduced, and the actual returns for the purpose of checking, that at the time it is offered there will be an opportunity to cross examine.

Mr. Baker: Mr. Beaman, please.

Hearing Examiner Hier: Just a moment. What objection, if any, do you have to the tender of Exhibit 52 in evidence?

Mr. Mayer: I have not seen it as yet, sir. If it is solely advertising—

Hearing Examiner Hier: Go ahead, Mr. Baker; we might as well take the witness while he is looking at it.

Mr. Baker: Mr. Beaman, will you come forward, please.

ROBERT T. BEAMAN was thereupon called as a witness on behalf of the Respondent and, having been first duly sworn, testified as follows:

Direct examination

Hearing Examiner Hier: Will you state your name?

The Witness: Robert T. Beaman.

By Mr. Baker:

Q. Mr. Beaman, what is your home address?

A. 676 South Hayworth, Decatur, Illinois.

Q. Are you appearing here under subpoena?

Robert T. Beaman, for Respondent—Direct

A. Yes, sir.

Q. What is your business address, Mr. Beaman?

A. 623 East Prairie Avenue, Decatur, Illinois.

(351) Q. What type of business is that?

A. Package liquor store, off-premises sale only.

Q. How far is Decatur from St. Louis?

A. Approximately 120 miles.

Q. Your business is for the sale of liquor and beer for off-premises consumption only?

A. Yes, sir.

Q. How long have you been in your present business, at your present address?

A. Since September 13, 1951.

Q. What did you do prior to that time?

A. We were in a tavern in the City of Decatur.

Q. And prior to that?

A. I was in the Service, in the United States Marine Corps.

Q. What branch of beer do you handle?

A. Well, we have 20 some odd brands. Your main brand would be Falstaff and Griesedieck, Stag, Budweiser, Schlitz, Pabst, Miller's—those would be your best selling brands.

Q. Mr. Beaman, have you prepared figures showing your sales of various brands of beers?

A. I have.

Q. For the years 1953, 1954 and 1955?

A. Yes, sir.

Q. Do you have those with you?

A. I do.

(351-A) Q. If you would refer to those, please, I would like to ask you what your total beer sales were for the year 1953.

Robert T. Beaman, for Respondent—Direct

A. \$106,099.86.

Q. And for 1954?

A. \$107,824.71.

Q. Your beer sales were slightly up in 1954 over 1953?

A. Yes.

Q. Do you have your 1955 figures?

A. I have a ten-month total of \$90,977.87.

Hearing Examiner Hier: Do you have the unit figures?

The Witness: Sir.

Hearing Examiner Hier: Do you have unit figures with you?

Mr. Baker: We do have some unit figures.

By Mr. Baker:

Q. Do you have figures, Mr. Beaman, with respect to cases of various beers, Griesedieck, Falstaff, and so forth?

A. Yes, sir.

Q. For the year 1953, could you tell me how many cases of Griesedieck you sold?

A. A total of 7,185.

Q. And in 1954?

A. 6,818.

Q. That was a decline in 1954?

(352) A. Yes, sir.

Q. Have you calculated the percentage decline?

A. Approximately 5-1/10th per cent.

Q. So while your total beer business went up in 1954 your GB sales went down; is that correct?

A. That is correct.

Robert T. Beaman, for Respondent—Direct

Q. Do you have a comparison month by month of your Griesedieck sales for 1954 and 1953 as broken down by months?

A. Yes, sir.

Q. Taking the last sixth months of 1954 as compared to the last six months of 1953, what do your figures show on Griesedieck?

A. There was a decline of approximately 18.5 per cent.

Q. And the total year decline was about 5—

A. Was 5-1-10th.

Q. When did the major decline set in?

A. In July of 1954, according to our graph year. It was actually—they hit their peak in about February of 1954, I would say.

Q. Then there was a gradual decline in July?

A. That is right.

Q. And a precipitous decline from July?

A. Toward the latter part of the year.

Q. Mr. Beaman, do you wait on the trade yourself?

A. I do.

(353) Q. How many employees do you have?

A. Counting myself, a total of six.

Q. Mr. Beaman, to what do you attribute your decline in sales in Griesedieck while your total business was going up or staying about the same?

A. Well, I think it is due to several things. I think that they had several changes of their package, in the first part, I believe, of 1954.

They came out with a Jubilee pack, and they had at one time, I think we had in our store about, I think we had, two labels on cans, two labels on bottles, and two labels on quarts, that is, when they were changing over, and I think the public was confused.

Robert T. Beaman, for Respondent—Direct

There were different times when people would say they would prefer one beer out of one label than beer out of another label. They seemed to think that it tasted different.

Q. Both of them being Griesedieck beers?

A. Both of them being Griesedieck, but being with different label.

Q. And this change of labeling occurred some time early in 1954?

A. I believe that is correct.

Q. Did you notice a switch then of Griesedieck purchases to some other brands?

A. Yes.

(354) Q. To what other brands primarily did the switch go?

A. Primarily to Falstaff.

Q. Do you have your Falstaff figures with you?

A. I do.

Hearing Examiner Hier: Just a moment. You said there were several reasons. You mentioned package change.

The Witness: Well, they came in with a process called Krausend, and—

Hearing Examiner Hier: This is in 1954?

The Witness: This, I believe, was, sir.

Hearing Examiner Hier: Go ahead.

The Witness: And that particular time we received an awful lot of complaints from our customers on the continuity of the beer. It didn't—it was not the same always. We had a lot of complaints about it being green; that is what I meant by—

Hearing Examiner Hier: All right.

Robert T. Beaman, for Respondent—Direct

By Mr. Baker:

Q. Do you have your Falstaff figures, Mr. Beaman?

A. Yes.

Q. How many cases of Falstaff did you sell in 1953?

A. 2,691 cases.

Q. And in 1954?

A. 4,593.

Q. How are your Falstaff sales running for the first ten (355) months of 1955?

A. 4,175 for the first ten months, which will be an increase over 1954.

Q. Did you yourself try Griesedieck Beer when the complaints came to you?

A. I did on occasion.

Q. Had you been a Griesedieck drinker?

A. Yes.

Q. And your family?

A. My father and my brother—my brother has a package liquor store in the city separate from our operation, but being in the family, why, we follow each other's operation, and he and my father, in particular, were Griesedieck drinkers; in fact, their distributor was a very close friend of theirs, and they both, during this period of time, we—rather they did—switched from Griesedieck Brothers Beer, because they didn't care for it. They didn't care for the taste of it.

Mr. Mayer: I move to strike that part of the answer, Mr. Examiner, which is referring to what somebody told him. What this witness himself did is probably pertinent.

Hearing Examiner Hier: Do you know of your own knowledge that they switched?

The Witness: I do.

Robert T. Beaman, for Respondent Direct

Hearing Examiner Hier: The reason for switching will be stricken.

(356) *By Mr. Baker:*

Q. Mr. Beaman, have there been any changes in the prices of beer that you handle since late 1953?

A. No.

Q. What do you sell six packs for, the different brands?

A. Falstaff, Griesedieck and Stag, six for \$1.10, plus your State sales tax.

Q. How about Budweiser and Schlitz?

A. Budweiser, Schlitz, Labst and Miller's, those premium brands are six for \$1.35, plus your State sales tax.

Q. Do you handle Hamm's, Heileman's Old Style?

A. I do.

Q. What do you sell six packs of Hamm's for?

A. \$1.35.

Q. That is the same as your Budweiser. How about Old Style?

A. Old Style is the premium price beer, six.

Q. Do you handle Blatz?

A. No, sir.

Q. Did you at one time?

A. I did at one time.

Q. When did you discontinue handling Blatz?

A. When the local distributor gave up the agency for Blatz.

Q. Approximately how long ago would it be?

A. I would say approximately a year and a half ago.

Q. When you were selling Blatz, at what price did you sell a (357) six pack?

A. It was priced at the premium price, six for \$1.35.

Robert T. Beaman, for Respondent—Direct

Q. Have you given any consideration to taking Blatz back on?

A. Yes, I have.

Q. What have you done?

Mr. Mayer: I object to this questioning. This is purely speculation, and I do not see what defense this possibly would be relating to.

Mr. Baker: We cannot tell whether it is speculation until we hear what the witness has to say about it.

Hearing Examiner Hier: You are asking what he is going to do in the future?

Mr. Baker: He has made some concrete plans, has gotten prices.

Hearing Examiner Hier: Well, if he has obtained prices, Mr. Mayer, on restocking, he can testify to that.

Mr. Mayer: To what defense can that be to the price reduction of Budweiser in 1954, his plans for 1955 or 1956?

Hearing Examiner Hier: I suspect it goes to this alleged premium.

You may answer.

The Witness: I have talked with the representative from the brewery. He has located a supplier, and I can buy the Blatz Beer from this particular distributor in Springfield, Illinois. The price of it would be slightly under the price of (358) Falstaff, Griesedieck and Stag.

Hearing Examiner Hier: You mean the price to you?

The Witness: Yes, sir.

Hearing Examiner Hier: What will you sell it at, what will that price make you sell it at, to the consumer, six?

The Witness: Six for \$1.00, sir.

Robert T. Bodman, for Respondent: Direct

Hearing Examiner Hier: Six for a dozen? That is what you have been offered.

The Witness: Yes, sir.

It I may add—excuse me.

By Mr. Baker:

Q. Mr. Bodman, when you were handling Blatz beer, you discontinued handling it, what price did you sell six packs at?

A. \$1.35.

Q. What was your purchase price at that time?

A. I believe it was \$3.76 a case; that would be a case of eight six packs. You mean my cost price, wholesale price?

Q. Yes.

A. I believe it was—I'm quite sure that is right. It was the same price as all our other premium beers.

Q. What is your cost price today on Falstaff for a comparable—

A. \$3.19 for a case of 24.

Q. You say if you take Blatz on, back on, the price you will have to pay is just under \$3.19 for Falstaff?

(359) A. That is right.

Excuse me, I think I said \$3 and something for a right 6-pack; it, \$3.76, it would have been for 24 cans.

Hearing Examiner Hier: Do you want that marked?

Mr. Baker: Yes.

Hearing Examiner Hier: There have been marked for identification as Respondent's Exhibit 53, the witness' 1953 and 1954 total beer sales of all brands, and for 10 months of 1955.

Robert T. Beaman, for Respondent Direct

As Respondent's Exhibit 54, the witness' month by month case purchases of five different brands of beer during the same period.

(The documents referred to were marked as Respondent's Exhibits 53 and 54 for identification.)

By Mr. Baker:

Q. Mr. Beaman, I show you Respondent's Exhibit 53 and Exhibit 54 for identification, and I ask you if you prepared those from your books and records?

A. I did.

Mr. Baker: I offer them.

Mr. Mayer: We have no objection.

Hearing Examiner Hier: Admitted.

(The documents referred to, heretofore marked for identification Respondent's Exhibits 53 and 54 were received in evidence.)

(360) *By Mr. Baker:*

Q. Mr. Beaman, I show you Respondent's Exhibit 55 and Respondent's Exhibit 56 for identification, and ask you what they are.

(The documents referred to were marked as Respondent's Exhibits 55 and 56 for identification.)

The Witness: They are an inside and an outside picture of the liquor store, my liquor store, excuse me.

Mr. Baker: I offer these, your Honor.

Mr. Mayer: No objection.

Hearing Examiner Hier: What is it?

Mr. Mayer: We have no objection.

Robert T. Beaman, for Respondent - Cross

Hearing Examiner Hier: Admitted as Exhibit 55 and 56.

(The documents referred to, heretofore marked for identification Respondent's Exhibits 55 and 56 were received in evidence.)

By Mr. Baker:

Q. Mr. Beaman, who first talked to you about the possibility of testifying in this case?

A. Mr. E. M. Crawford.

Q. Who is he?

A. He is our local Budweiser Beer distributor.

Q. Who is paying your expenses to Washington?

A. The Anheuser-Busch Company.

Q. Have you talked to Mr. Ingamells and Mr. Hallquist (361)? A. Yes, sir.

Q. Are you related to any Anheuser-Busch employees?

A. No, sir.

Q. Are you indebted in any way to Anheuser-Busch?

A. No, sir.

Q. You are under no obligation to Anheuser-Busch, either financially or otherwise?

A. None.

Mr. Baker: You may cross examine.

Cross Examination by Mr. Mayer:

Q. Mr. Beaman, during 1954 were the wholesale prices of these various brands of beer to you the same as they had been during 1953?

A. No, sir.

Q. There had been some changes in the price?

Robert T. Beaman, for Respondent—Cross

A. There had been an increase in the price of your premium brands; I believe that was the increase. I know that the premium beer went up.

Q. When was that increase, sir?

A. I believe that was in October of 1953, I believe, I don't know; I don't recall. It was just after they had had the big strike, and all premium beers went up at that time.

Q. Were there any changes in prices of the beers that you handled during the year 1954?

(362) A. None.

Q. None to you, sir?

A. None to me.

Q. Now, sir, when did the new label of the Griesedieck Beer first appear in your store?

A. I believe the latter part—I believe it was Christmas time, approximately, in 1953; I believe.

Q. During then, let us say, of December, 1953 and January of 1954 were there two labels of Griesedieck Beer on your shelves?

A. There was a time, yes, sir.

Q. What was that time?

A. Well, I believe it was during the latter part of 1953, during December and, possibly January of 1954.

Q. After January, 1954, then Griesedieck was under one label on your shelves; is that right, sir?

A. I wouldn't say that for sure. I mean our inventory is such that we may have had quarts of the old label, we may have had 12-packs; we carry different packages of them. We carry quarts, we carry 24 cans, we have 12-packs, we have 6-packs, we have pint bottles. We have throw-away pint bottles at this particular time, and there

Robert T. Beaman, for Respondent - Cross

may have been a package that we would have had left in inventory.

Q. That would be an oddity though, one package of ten packages of the various sizes left rather than by quantity of any size?

(363) A. No. Actually, no. Your business does always—I mean, you don't always sell quarts one day and the next day sell the same amount. You might.

Q. Now, in January of 1954 were you purchasing Griesedieck Brothers Beer under two labels?

A. I am not able to answer that question. I don't know.

Q. Were you purchasing it in March under two labels?

A. I don't believe so. But again I am not able to tell. I was purchasing their cans under two labels for their 12-pack was packed in one type of pack and their 6 pack were packed in a Jubilee pack.

Q. For how long did that last, Mr. Beaman?

A. That was several months.

Q. What months were those?

A. That would have been from the time they introduced the Jubilee pack for probably four or five months after that; in other words, I believe they introduced the Jubilee in December of 1953. That would have made the two packages coming out together up until probably to close to the spring of 1954. These are all from memory.

Q. In other words, the two labels were on your shelves then, from December of 1953 through the spring of 1954?

A. I believe that is correct.

Q. How do you account then for the two labels both appearing on the shelves in December of 1953 and until the spring of 1954. (364) that there is no significant de-

Robert T. Beaman, for Respondent Cross

cause in the sale of Griesedieck Brothers until July of 1954?

A. Well, I don't think that any product would fall off immediately. I think that after they made a mistake, I think it would be some time before they would feel that mistake.

Q. You mean six months, as far as the labels are concerned now, only the labels we are talking about?

A. I don't quite understand what you mean.

Q. Well, sir, I thought you testified that there was some confusion concerning—

A. There was.

Q. (continuing)—the labels of Griesedieck Brothers Beer and, consequently, that influence was felt on the consumer trade.

A. That is right.

Q. They were not sure about what kind of beer they were getting.

A. That is right.

Q. And I was merely asking you, you said there had been some switching, as I remember it, to other beers from Griesedieck Brothers, and one of the reasons given for it was, perhaps, the difference in the labeling?

A. That is right.

Q. But your own sales figures show that prior to the discontinuance of the particular two types of labeling, and the (365) insistence on the one type of labeling, namely, Griesedieck Brothers, that up until July of 1954 there isn't any significant decrease in the sale of Griesedieck Brothers Beer during the period in which you had the two labels on your shelf. Therefore, I want to know what

Robert T. Beaman, for Respondent—Redirect

significant effect the difference in the labeling had in your decrease in Griesedieck Brothers Beer subsequent to July of 1954?

A. Well, it was a factor, I believe, as I said, I think—I know we received those complaints probably, if I recall correctly, probably later on, maybe, in other words, after the two kinds—in other words, the customer would come in, he would get one kind, maybe he would want six cans of beer. The next time he would want 12. That is where your difference came and, possibly, after he had had that a number of times, he would decide, at least that was the impression I was left with, and it may have taken some time for that to show up in your sales.

I believe—I looked it over—I believe that after February—in February—they started more or less leveling off. They were—is that correct there?

Q. These are your figures there, sir.

A. May I—

Q. Mr. Beaman, did any customer of yours ever specifically tell you he was switching from Griesedieck Brothers to any other brand because he was confused by the label?

(366) A. No.

Mr. Mayer: That is all we have of Mr. Beaman.

Redirect Examination by Mr. Baker:

Q. Mr. Beaman, did anyone ever tell you that they were switching because they did not like the product?

A. Yes, sir.

Mr. Baker: That is all.

Hearing Examiner Hier: Just a moment. I want to ask you a question we have not gone into.

Robert T. Beaman, for Respondent—Redirect

You have a lot of experience with the retail trade. How much switching is there, any kind of beer, I do not care what it is, how much switching is there, 5 per cent of your customers drink one kind for a while and then switch, 10 per cent, or what?

The Witness: I don't have those figures, your Honor.

Hearing Examiner Hier: I know you do not have the figures.

The Witness: But I would say that the biggest percentage of our business is regular customers; the biggest percentage of those customers we know what they want, and they don't change. They buy the same beer. I think beer is, in my opinion, like cigarettes. I think you acquire a taste for it, and you stick with it pretty well.

Hearing Examiner Hier: Can you give me an idea of (367) what percentage, roughly, of your customers do switch in, say, a two or a three-year period?

The Witness: I wouldn't be able to give you a percentage figure on that.

Hearing Examiner Hier: All right.

Any more questions? You are excused, Mr. Beaman, thank you very much.

(Witness excused.)

Mr. Barton: Call Mr. John L. Henry to the stand, please.

John L. Henry, for Respondent Direct

JOHN L. HENRY was thereupon called as a witness on behalf of the Respondent and, having been first duly sworn, testified as follows:

Direct Examination by Mr. Bartow:

Q. Mr. Henry, what is your home address, please?

A. Rural Route No. 3, Blad Hill Road.

Q. In what city?

A. Jefferson City, Missouri.

Q. What business are you engaged in in Jefferson City?

A. In the Town and operate the Alibi Tavern.

Q. Where is that located?

A. At 501 Clark Avenue.

Q. In Jefferson City, Missouri?

A. That is right.

(368) Q. How large a town is Jefferson City, Missouri?

A. 30,000.

Q. How far is it from St. Louis, Missouri?

A. 120 miles west.

Q. Now, in your business, do you sell beer for off-premises consumption as well as consumption on the premises?

A. Yes, sir.

Q. What percentage of your bottle beer sales are sold for consumption on the premises?

A. Ninety-five per cent.

Q. You sell canned beer also? A. I do.

Q. What percentage of your canned beer is sold for off-premises consumption?

A. I would say 5 per cent.

Q. And the remaining 95 per cent is for consumption off the premises?

A. Take-home, off the premises.

John L. Henry, for Respondent Direct

Q. How long have you been engaged in business at the Alibi Tavern?

A. The third of March, 1952 is when I started the business.

Q. Do you personally wait on the trade?

A. I do.

Q. Do you have any assistants?

A. My wife and a bartender.

(350) Q. What bottle and canned beer do you handle?

A. I handle Budweiser, Schlitz, Griesedieck, Falstaff and Stag, five brands.

Q. Has there been any change in the beer prices to you since January 1, 1953 on any of these brands that you handle?

A. Falstaff only.

Q. How much was the—what was the price change in Falstaff? When did it occur?

A. It increased two cents a case.

Q. When, approximately?

A. It must have been in July, 1955, I would say.

Q. Mr. Henry, do you know most of the customers who come into your place of business?

A. I do, sir.

Q. What is your experience with respect to the regularity with which those customers drink the same beer?

A. State that question, will you please?

Q. What is your experience with respect to the regularity with which these customers who come in drink the same beer as they were accustomed to drinking?

A. Well, you serve your customers, you can practically go to the ice box and get the beer that you know, the kind they drink, you are very familiar with that.

John L. Henry, for Respondent Direct

Q. In other words, it is your general—as a general rule you can get the beer out of the ice box as they walk in the (370) door?

A. That is right.

Q. Mr. Henry, have you produced a tabulation of your purchases of Griesedieck, Falstaff, Stag, Schlitz and Reu weiser Beer for 1953, 1954 and 1955?

A. I have, sir.

Q. Do you have it with you?

A. Yes, sir.

(The documents referred to were marked as Respondent's Exhibits 57-A through G and 58 for identification.)

By Mr. Barton:

Q. Now, Mr. Henry, is Exhibit 57-A through G an accurate tabulation of your purchases of the various types of beer disclosed on the exhibit for the years 1953, 1954 and 1955?

A. Yes, sir; they are.

Q. And is Exhibit 58 an accurate summary of your purchases of those various types of beer for the years 1953, 1954, 1955 in dollars?

A. Yes, sir; that is right.

Q. Now, based upon Exhibit 58, what were your total beer purchases in 1953?

A. \$17,929.89.

Q. What were your total beer purchases in 1954?

A. \$20,145.

Q. That gave you a percentage increase in your total business (371) in 1954 over 1953 of approximately 12.4 per cent, did it not?

John L. Henry, for Respondent - Direct

A. That is correct.

Q. What were your Griesedieck Brothers purchases in 1953?

A. My total Griesedieck purchases in 1953 were \$9,231.

Q. What percentage of your total beer purchases was that in 1953?

A. 51.5.

Q. In other words, Griesedieck accounted for 51.5 of your package beer purchases in the year 1953?

A. That is right.

Q. What were your Griesedieck purchases in 1954?

A. \$8,365.76.

Q. What percentage did Griesedieck account for of your beer purchases in 1954?

A. 41.5.

Q. What have been your Griesedieck purchases in 1955 through November, through the 25th of November?

A. \$5,983.28.

Q. What percentage is that of your total beer purchases for the year 1955?

A. 32.9.

Q. What was the decline in your Griesedieck purchases during 1954 over 1953?

A. State that again, please.

Q. I say, what was the percentage decline in your Griesedieck (372) purchases 1954 as compared to 1953?

A. My decline in 1954 over 1953 was minus 9.4.

Q. And that was while your total business was increasing from 1953 to 1954 by 12.4 per cent, was it not?

A. That is right.

John L. Henry, for Respondent Direct

Q. Did your Falstaff purchases in 1954 go up or down as compared to 1953?

A. It went up in 1954.

Q. What was the percentage increase in your Falstaff purchases 1954 over 1953?

A. In 1954 the percentage was 21.2.

Q. Let us put it this way: What were your purchases of Falstaff in 1953?

A. My total purchases in 1953 were \$1,914.20.

Q. What percentage of your business was that?

A. 10.6.

Q. What were your Falstaff purchases in 1954?

A. \$4,264.

Q. What percentage of your business was it that year?

A. 21.2.

Q. And the increase in Falstaff purchases 1954 over 1953 was 120 per cent, was it not?

A. Correct.

Q. Mr. Henry, you have testified that your Griesedieck purchases declined in 1954 while your total purchases increased. (373) In what month of 1954 did your Griesedieck Brothers purchases start dropping off as compared to 1953?

A. I would say in March and April.

Q. What happened to the remainder of 1953, did they continue to decline?

A. Yes, they did; yes, sir.

Q. How about 1955, has Griesedieck gone back to the 1953 level or are they continuing to decline?

A. They are continuing to decline, I would say.

Q. What happened to Falstaff in 1955, did they—

A. Very much on the increase.

John L. Henry, for Respondent—Direct

Q. What percentage of your purchases is Falstaff in 1954?

A. \$4,832.42.

Q. Representing what percentage of your business?

A. 26.6.

Q. That is compared to the 21.2 per cent in 1954?

A. Correct.

Q. Mr. Henry, what explanation, if any, do you have then for this drop-off of Griesedieck Brothers Beer purchases by you 1954 over 1953, and the decreasing percentage of your total business which Griesedieck Brothers represents?

A. Well, the customer reaction, so many of your customers complain about the beer being bitter, it didn't taste like it used, "Let me try something else," and most of them won't order Falstaff.

(374) Q. When did that customer reaction start?

A. Well, I would say in March and April of 1954.

Q. Are you familiar with the fact that Griesedieck Brothers came out in March or April of 1954 with a new beer, advertised as a new beer?

A. Yes, I am; yes, sir.

Q. Was it about that time that the customer reaction that you speak of began?

A. That is right.

Q. Do you have any customers who were drinking Griesedieck Beer prior to April and May of 1954 who switched to another brand?

A. Yes, sir.

Q. Pardon?

A. Yes, sir; I have.

John L. Henry, for Respondent—Direct

Q. What, if anything, did they tell you when they changed?

A. Well, the biggest complaint was the beer seemed to be very bitter.

Q. You mean bitter as compared to what it had been before?

A. That is right.

Q. Do you know the names of any of your customers who switched from Griesedieck to other brands at or about that time?

A. Yes, sir.

Q. That is in 1954?

A. Herman Stegman, Ray Lubbert and Henry Lubbert, two brothers; (375) and, well, there are numerous people, I just can't think of offhand, but there is quite a number of them.

Q. Were these people whom you have named regular customers of yours?

A. Yes, sir; daily customers.

Q. Were they customers for service over the bar?

A. That is right.

Q. How about off-premises consumption too?

A. Yes. Some of their business; but most of it over the bar.

Q. What would be, these customers you have named, their normal regular consumption a day in your place of business?

A. Oh, I would say anywhere between seven to ten bottles.

Q. Have any of these customers who you have named as switching from Griesedieck to another brand, Falstaff, in 1954, gone back to Griesedieck Brothers?

John L. Henry, for Respondent—Direct

A. They have not, no.

Q. Who first contacted you about testifying here?

A. My wholesaler Norbert Scheppers.

Q. He is your Budweiser wholesaler?

A. Yes, sir.

Q. Did you talk to Mr. Ingamells and Mr. Hallquist?

A. I did, sir.

Q. And Anheuser-Busch is paying your expenses to come here to testify?

A. Yes, sir.

(376) Q. Are you in any way indebted to Anheuser-Busch?

A. I am not.

Q. Do you have any relatives who are employed in Anheuser-Busch?

A. I do not have any; no, sir.

Q. You are testifying pursuant to subpoena, are you not?

A. That is right.

Q. What do you sell the 6-pack Budweiser for, for off-premises; that is, 6-pack can Budweiser?

A. \$1.15.

Q. What do you sell Falstaff and Griesedieck and Stag for?

A. \$1.05.

Q. What do you sell Budweiser for over the bar?

A. Thirty cents.

Q. What do you sell Falstaff and Stag for?

A. Twenty-five.

Hearing Examiner Hier: Are your gross margins of profit on those two different prices the same or different?

John L. Henry, for Respondent—Direct

The Witness: I would say, yes, they are about the same.

Hearing Examiner Hier: They are the same?

The Witness: I would say approximately the same.

Hearing Examiner Hier: You would make just as much money selling a bottle of Budweiser over the bar as you do a bottle of Falstaff?

(377) The Witness: I make more money selling Budweiser.

Hearing Examiner Hier: More money?

The Witness: Yes, sir.

Hearing Examiner Hier: How much more, six cents, eight cents, what is it?

The Witness: Roughly I would say six cents.

Hearing Examiner Hier: Six cents additional?

The Witness: That is right.

Hearing Examiner Hier: While I have already interrupted you, I might ask you another question. You sell draft beer in your place?

The Witness: Yes, sir; I do.

Hearing Examiner Hier: What brand?

The Witness: Budweiser.

Hearing Examiner Hier: Also when you buy beer, that is the branded beer, do you buy on customer preference alone or do you buy on price or do you buy on both?

The Witness: Well, I just buy on customer demand. I would say. I only handle five brands.

Hearing Examiner Hier: What I am interested in, gentlemen, not necessarily from this witness, is how much difference in price it takes to make a retailer ignore customer demand and buy another type of beer. I would like

John L. Henry, for Respondent—Direct

to know the answer to that somewhere along in this case. I do not know whether he can tell me or not.

(378) *By Mr. Barton:*

Q. Mr. Henry, how long can you keep beer on your premises which you order without it becoming unsalable?

A. I would say seven to ten days.

Q. You have got to move the beer that you buy fairly quickly?

A. Definitely, turn over.

Q. And, in general, your purchases are dictated by what you think your customers are going to buy?

A. That is right.

Q. By the way, when the beer is sold over the bar there is this five cent differential between Budweiser, Schlitz and Falstaff, Griesedieck?

A. That is right.

Q. When you sell it in the 6-can pack there is a five cent differential on the whole six cans that are sold, is there not?

A. Ten cents, \$1.15 and \$1.05; ten cents.

Q. In other words, a differential of around less than two cents a container?

A. That is right; two cents a can, that is right.

Mr. Barton: You may cross examine—by the way, just a minute.

Your Honor, I offer in evidence Exhibits 57-A through G, and 58.

Hearing Examiner Hier: Any objection? Admitted.

(The documents referred to, heretofore marked for (379) identification Respondent's Exhibits 57-A through G and 58 were received in evidence.)

John L. Henry, for Respondent—Cross

Hearing Examiner Hier: Tell me this, Mr. Henry, when somebody comes into your place and wants a bottle of Miller's, you do not handle Miller's, do most of the people who come in there, who want Miller's, Pabst or Schlitz or some other brand you do not handle, do they buy some other brand or do they walk out or what is the relative percentage of that?

(380) The Witness: Well, I really don't have any other calls for the beer I handle.

Hearing Examiner Hier: Nobody wants anything else?

The Witness: Nothing else. I don't have any calls for it; that is the reason I don't stock any of it.

Hearing Examiner Hier: Mr. Mayer?

By Mr. Barton:

Q. By the way, your tavern, what is the general type of your tavern, is it a family type or transient business?

A. I would say neighborhood tavern definitely, a neighborhood tavern.

Q. In other words, your customers are more repeat customers than new customers?

A. That is right, definitely; that is right.

Cross examination by Mr. Mayer:

Q. Mr. Henry, how long have you handled Budweiser?

A. Ever since we have been in business, the third of March 1952.

Q. Was this a going business when you purchased it, sir, or when you took it over?

A. Yes, sir; it was.

Q. It was?

A. Yes, sir.

John L. Henry, for Respondent—Cross

Q. And was Budweiser handled at that time?

(381) A. That is right.

Q. Has Budweiser been the only draft beer that you have had in your tavern?

A. No, I handled, Falstaff, I would say, about half the time. I can check my records and give you a definite figure on that.

Q. I take it you do not have Falstaff now, sir?

A. That is right; Budweiser only.

Q. How do you purchase your Budweiser, Mr. Henry?

A. I buy it through the wholesaler, Norbert Scheppers, pay in cash for it on delivery.

Q. And he delivers it, I take it, to your establishment?

A. That is right.

Q. Does he call on you every day?

A. Only for my draft beer; once a week on my cans and bottles.

Q. Is it an order process, you give him the order as he drops in in the morning?

A. That is right; he calls in the morning by 'phone.

Q. Now, sir, were there any price changes in any of the brands of beer from the wholesalers to you that you handled during 1953?

A. No.

Q. There were none?

A. No, sir.

(382) Q. Were there any prices in any of the brands of beer you handled during 1954?

A. Not any.

Q. Has Griesedieck Brother, to your knowledge, returned to its old formula in distributing its beer?

Mr. Barton: I am sorry, I did not get that question, Your Honor. In distributing—

John L. Henry, for Respondent—Cross

Mr. Mayer: In manufacturing and distributing its beer.

Hearing Examiner Hier: Repeat the question, Mr. Reporter.

(The question was read.)

Hearing Examiner Hier: What do you mean by formula in distributing?

Mr. Mayer: Well, the gentleman has testified there was a new process used in conjunction with the distribution.

Hearing Examiner Hier: That is the formula in manufacture, not the formula in distributing.

Mr. Mayer: My main question was as to whether or not they have returned to their old formula in manufacturing their beer.

Hearing Examiner Hier: All right. You may answer that.

The Witness: I don't know.

Hearing Examiner Hier: Its formula in manufacturing (383) is what his question was directed to, and the witness' answer is he doesn't know.

Mr. Mayer: "I don't know the answer" or "I don't understand the question asked."

Hearing Examiner Hier: I understood it to be "I don't know."

Put the question again; we will find out.

By Mr. Mayer:

Q. Mr. Henry, to what did you attribute your decrease in Griesedieck Brothers' sales in March and April of 1954?

A. Well, just customers complained of the beer was the only reason.

Q. Excuse me, sir?

John L. Henry, for Respondent—Cross

A. I say, customers complained of the product, inferior, I would say.

Q. Was there any change in the Griesedieck Brothers' formula in manufacturing its beer at that time?

A. Well, they were advertising under the Krausend name, that the beer was Krausend.

Q. Do you know what that type of manufacturing process is?

A. No, I don't.

Q. Now, sir, can you tell us just why Falstaff is increasing its sales in your tavern?

A. Well, a lot of people say it is awfully good beer, very good beer.

(384) Hearing Examiner Hier: What do you drink?

The Witness: I drink Budweiser.

By Mr. Mayer:

Q. Do you know what process Budweiser uses in manufacturing its beer?

A. I do not.

Mr. Mayer: That is all we have, Mr. Examiner.

Hearing Examiner Hier: Anything more?

Mr. Mayer, do those Exhibits 57-A through -G show the amount of draft beer?

Mr. Mayer: I believe they do, sir.

Hearing Examiner Hier: So it can be compared with the amount of packaged beer?

Mr. Mayer: Yes, it is in barrels. There are barrels, sir. I do not know whether they have been converted.

Mr. Barton: What was your question, Your Honor?

Hearing Examiner Hier: I just wanted to know whether your exhibit showed it, because I wanted to get some

John L. Henry, for Respondent—Cross

notion about the amount of draft beer he sells as compared with the package.

Mr. Barton: Let us ask him.

Hearing Examiner Hier: Taking your total sales of Budweiser, both draft and package, what percentage is draft?

The Witness: I would say very little.

Hearing Examiner Hier: Very little?

(385) The Witness: Yes, I would say very little.

Hearing Examiner Hier: Most of it is packaged?

The Witness: No, most of my beer is bottled beer across the counter.

Hearing Examiner Hier: I understand. I am not talking about all your beer, I am talking about all your Budweiser beer, whether it is packaged or whether it is draft, it is still Budweiser beer.

The Witness: Well, I sell more package, in bottle beer, than I do draft beer, by far.

Hearing Examiner Hier: You do?

The Witness: Yes.

Hearing Examiner Hier: Considerably more?

The Witness: Yes.

Hearing Examiner Hier: All right. That is all.

I guess they are through with you, Mr. Henry.

Mr. Barton: That is all. You are excused.

(Witness excused.)

John W. Wombacher, for Respondent—Direct

Mr. Barton: Mr. Wombacher.

JOHN W. WOMBACHER was thereupon called as a witness for the Respondents and, having been first duly sworn, testified as follows:

Direct examination

Hearing Examiner Hier: Will you spell your name, sir?

(386) The Witness: W-o-m-b-a-c-h-e-r.

Hearing Examiner Hier: What is your first name?

The Witness: John W.

Hearing Examiner Hier: Go ahead.

By Mr. Barton:

Q. Mr. Wombacher, what is your home address, please?

A. 117 Riverview Court.

Q. Peoria, Illinois?

A. Peoria, Illinois.

Q. What is your business?

A. We operate a tavern and liquor store combination, both on and off the premises sales.

Q. Where is it located?

A. 2525 North Adams, Peoria, Illinois.

Q. How long have you been engaged in that business?

A. Oh, I have been there nine years.

Q. Nine years?

A. Yes.

Q. What products, in general, besides liquor and beer do you handle?

A. Well, we also handle delicatessen, foods in the liquor store, some sporting goods.

Q. What brands of beer do you handle?

A. We handle in all around thirty, thirty-five brands from time to time, primarily Budweiser, Schlitz, Miller's,

John W. Wombacher, for Respondent—Direct

Pabst, (387) Heileman's Old Style, Blatz, Falstaff, Stag, Griesedieck, Edelweiss, Atlas.

Q. How do these beers compare in price, that is, in the retail sales?

A. Well, I would group them into three categories. There are your premium beers we sell for \$1.08 for a six pack, for example. That would be your Budweiser, Schlitz, Miller's, such as that. Your Stag—

Q. Would it include Heileman's Old Style?

A. Yes.

Q. And Hamms?

A. Hamms.

Q. What was the next classification?

A. Oh, Falstaff, Stag, Griesedieck Brothers, Catlings, Black Label that we sell for 98 cents for a six can carton.

Q. Do you have a classification of prices below that?

A. Yes. We have the Atlas, Edelweiss, some others that we sell for around 89 cents for a six pack.

Q. Do you have Gipps?

A. Gipps, yes.

Q. Where is that manufactured?

A. Now it is manufactured in Chicago; formerly it was a Peoria brewery.

Q. What does that sell for?

A. We sell it for 89 cents for a six pack.

(388) Q. Let me show you Exhibit 59, and ask you if this is a list of the prices in your package department?

(The document referred to was marked Respondent's Exhibit 59, for identification.)

The Witness: Yes, sir.

John W. Wombacher, for Respondent---Direct

By Mr. Barton:

Q. That is as of some time in October.

I notice Gipps is 87 on this one for the six pack.

A. Yes, I made a mistake on that of two cents. It is two cents below Edelweiss and Atlas.

Q. I see.

What are your prices over the bar for Budweiser, Schlitz, Pabst, Miller's, and so forth?

A. 30 cents.

Q. What are your prices for Falstaff, Stag, Griesenbeck?

A. 25 cents.

Q. Do you have other over-the-bar beers besides those?

A. Yes. The Gipps and Atlas, Edelweiss, we sell for 20 cents.

Q. Those are all for the 12-ounce returnable bottle?

A. Right.

Mr. Barton: I offer 59 in evidence.

Mr. Mayer: No objection.

Hearing Examiner Hier: Admitted.

(The document referred, heretofore marked for (389) identification Respondent's Exhibit 59, was received in evidence.)

By Mr. Barton:

Q. I show you Respondent's Exhibit 60, and ask you what it is.

(The document referred to was marked Respondent's Exhibit 60, for identification.)

The Witness: It is the picture of the exterior of our tavern, also the liquor store.

John W. Wombacher, for Respondent—Direct

Q. I show you Respondent's Exhibit 61, and ask you what it is.

(The document referred to was marked Respondent's Exhibit 61, for identification.)

The Witness: The picture of the interior of our liquor store.

By Mr. Barton:

Q. Have you produced a document showing your gross sales 1950 through 1955, and your purchases of Griesedieck Brothers beer?

A. Yes.

Mr. Barton: May I have it?

(The document referred to was marked Respondent's Exhibit 62 for identification.)

By Mr. Barton:

Q. I show you Respondent's Exhibit 62, and ask you whether (390) this is a tabulation of your gross sales for the years 1950 through 1955, and your purchases of Griesedieck Brothers beer by months for each of those years?

A. That is correct.

Q. And the purchases?

A. That is correct.

Q. Mr. Wombacher, what were your total gross sales for 1953?

Mr. Mayer: Mr. Examiner, I think all these figures appear on the memorandum. I do not see any reason to waste our time in asking questions about the figures as they appear on the exhibits.

Hearing Examiner Hier: What is the point, Mr. Barton, if they are in the record, if they are going into the

John W. Wombacher, for Respondent—Direct

record, and he has not objected so far, what is the point in having him recite them?

Mr. Barton: I do not have any objection—

Hearing Examiner Hier: Do you have any objection to these exhibits, Mr. Mayer?

Mr. Mayer: No, sir.

Hearing Examiner Hier: This Exhibit 62 is admitted into the record, without objection.

Mr. Barton: All right, sir.

(The document referred, heretofore marked for identification Respondent's Exhibit 62, was received in evidence.)

(331) Hearing Examiner Hier: I assume the exhibit shows the same picture the other witnesses have testified to?

Mr. Barton: That is true, Your Honor. Let me just ask these general questions.

By Mr. Barton:

Q. How did your Griesedieck Brothers business compare with your total business, 1954 as against 1953, insofar as the decline in totals was concerned?

A. 1954 and 1953?

Q. Yes.

A. In 1954 our business was down slightly.

Q. That is, your total business?

A. Gross business, gross sales. However, the Griesedieck sales dropped considerably more in percentage than our gross sales did.

Q. Well, is it a fact that Griesedieck Brothers dropped 15 per cent in 1954 against 1953?

John W. Wombacher, for Respondent—Direct

A. That is correct; 15 per cent, and our overall sales were down, I believe, around seven and a half, 7.5.

Q. What is the fact as to whether your Griesedieck Brothers sales are down the first ten months over 1953 as against the first ten months of 1954?

A. Our Griesedieck sales are down 28.8 per cent in that period.

Q. When did you first notice that Griesedieck Brothers sales (392) in your business were falling off?

A. Oh, I would say in the early months of 1954.

Q. Did you hear any of your customers make any remarks about Griesedieck Brothers beer at or about that time?

A. Yes. We had complaints that the beer had changed flavor, taste, and also had quite a number of complaints about the beer being wild, and so forth.

Q. What do you mean about it being wild? What is the meaning of the term "wild" in that connection?

A. We would open a bottle or can and the beer runs over. We had a period, I would say, of—I don't know whether it was just one batch—but it seemed to go on for about a month where we got numerous complaints from customers. They would return packages that would sell—primarily off-premises cans—they would bring it back and complain when they opened a can it would shoot all over the room and run all over.

Q. You mean it would spew out as it was opened up?

A. That is right.

Q. That was about the time Griesedieck Brothers put out this new type beer in April 1954, March or April 1954?

A. March or April, around in there.

Q. And, at the same time, there was a change in the label of the beer?

A. That is right.

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Hearing Examiner Hier: What did you sell that new (393) beer for to the customers?

The Witness: Sir?

Hearing Examiner Hier: Did you charge the customer 30 cents a bottle or 20 cents a bottle of that new beer, Krausend?

The Witness: We charged the same as we had been charging on it.

Hearing Examiner Hier: What is that?

The Witness: 25 cents.

Hearing Examiner Hier: 25?

The Witness: Over the bar; yes, sir.

Hearing Examiner Hier: How much do you have to drop the price of a bottle of beer to get a customer to switch, say a beer is selling for 30 cents?

The Witness: I would say if you dropped a nickel a bottle over the bar on most any beer you would probably pick up a great number of sales for some time, maybe a short period.

Hearing Examiner Hier: Would you retain them?

The Witness: It has never been my experience that you do.

Hearing Examiner Hier: A sampling process then?

The Witness: That is right. You can—I have seen time after time of cases where products, beers and others were sampled, and people will, through appreciation or because they are interested in a change, maybe would try it for a while, but (394) then it seemed like they nearly always go back to the original product.

Hearing Examiner Hier: Go on, Mr. Barton.

John W. Wombacher, for Respondent - Direct

By Mr. Barton:

Q. Were there a significant number of customers who complained about the Griesedieck beer in this 1954 period?

A. Well, I would say a significant number of the Griesedieck drinkers that switched off.

Q. And to what beers did they switch or did you notice?

A. Well, during that period our Falstaff sales more than tripled, have more than tripled since 1953, and our Stag has doubled; and, at the same time, Griesedieck has decreased.

Q. So it is your conclusion that the Griesedieck drinkers have switched to Falstaff and Stag?

A. Evidently.

Q. I notice on Exhibit 60 there are several different names as distributors of Griesedieck during that period. Would you explain what the various different titles across the top of the page mean?

A. Yes. G and G Distributing Company was a distributor for Griesedieck Brothers through March of 1952. At that time a company named McHenry Distributing Company, who operate in Springfield, Illinois, also took over the Peoria territory for Griesedieck Brothers, and they distributed Griesedieck through June of 1954.

(395) At that time the Heller Provision Company became a distributor for Griesedieck Company, and they still have it.

Q. When you were having complaints from your customers about Griesedieck Brothers beer being wild, did you say anything to your Griesedieck distributor about it?

A. Yes. I, of course, told him and expected him to make the complaints on the beer good to me, I mean, the beer I had to take back, which he did, and his explanation was of

John W. Wombacher, for Respondent—Cross

it that they had changed the formula, the brew on the beer, and they were having some trouble getting it squared around to where it was trouble-free.

Q. Who first contacted you with respect to your testifying here, Mr. Wombacher?

A. Mr. Cook, the local distributor for Budweiser.

Q. Have you talked to Mr. Ingamells and Mr. Hallquist?

A. Yes, sir.

Q. And your expenses are being paid for coming here by Anheuser-Busch?

A. That is correct.

Q. Do you owe Anheuser-Busch any money of any kind?

A. No.

Q. Do you have any relatives who are employed by Anheuser-Busch?

A. No.

Q. You are testifying here under subpoena, are you not?

(396) A. That is right.

Mr. Barton: You may cross examine.

Cross examination by Mr. Mayer:

Q. Mr. Wombacher, how long have you handled Budweiser?

A. Well, ever since we have handled—ever since we have been in business, which the business has been there since 1945. I went there in 1947.

Q. How did you purchase your Budweiser?

A. Through the Brewers Distributing Company in Peoria.

Q. Has that always been the distributor for Budweiser in that area?

John W. Wombacher, for Respondent—Cross

A. Yes, sir.

Q. Ever since you have been in business?

A. Ever since repeal.

Mr. Barton: If I may interrupt, I show you Exhibit 63, and ask you whether this is a summary of your total of your gross sales for 1953, 1954, with per cent of decline, and your purchases of Griesedieck Brothers beer the same period, and also for the first ten months of 1954 and 1955?

(The document referred to was marked Respondent's Exhibit 63, for identification.)

The Witness: That is right.

Mr. Barton: I offer 63 in evidence.

Mr. Mayer: No objection.

(397) Hearing Examiner Hier: Admitted.

(The document referred to was marked heretofore for identification Respondent's Exhibit 63, was received in evidence.)

By Mr. Mayer:

Q. Mr. Wombacher, do you have any figures here with you, sir, showing the purchases of all the different brands of the beer you handled during 1953 and 1954?

A. Purchase of all the beers? No, sir.

(398) Q. In purchases, what is the rank of the beers in your store, in volume of purchases during 1955?

A. Comparing the one—

Q. In volume compared one to the other. Who was the leading brand?

A. Falstaff.

Q. What is the second brand, and third, and so forth?

John W. Wombacher, for Respondent—Cross

A. The second brand, I believe, would be Stag; the third brand is Budweiser; fourth, Schlitz. Do you want me to go on?

Q. Is that true of 1954 as well as 1955?

A. Yes, sir. I believe they would run just about the same.

Q. How about 1953?

A. 1953, I believe, probably, Budweiser, I believe, at that time—even Falstaff was right up there, pretty close—but Budweiser and Schlitz were closer to the Falstaff sales figures, their purchases at that time.

Q. Have you ever been under any financial obligation to Anheuser-Busch?

A. No, sir.

Q. Have you ever been under any financial obligation to the distributor of Anheuser-Busch?

A. No, sir.

Q. Now, when you relayed your complaint to the Griesedieck Brothers salesman concerning the product, what did they do about it?

(399) A. They made the beer good, and by that I mean that if a person returned some beer to us and we, in turn, gave them more beer, why, they would make it up to us, give us merchandise for it.

Q. Did they replace that with more wild beer, or did they replace that with a different type of beer?

A. They replaced it. The beer looked the same in the package, and I can recall two or three instances where the same person would complain two or three times in a row, and from that I concluded that probably it was one batch of beer that probably the distributor had on hand in his warehouse, and we had in our store, and it just took a

John W. Wombacher, for Respondent—Cross.

while to work it out, and after that, why, we didn't have any trouble with it.

Q. In other words, the product trouble has stopped?

A. Yes, sir.

Q. When did it stop?

A. I think it—like I said, it is probably just for maybe that one batch of beer, or that one shipment. It wasn't something that went on for month after month.

Q. Would you say it was approximately a month or a month and a half, or something in that neighborhood?

A. That is right.

Q. Did the Griesedieck salesman mention to you a new process involved in the manufacture of their beer?

(400) A. Yes, sir.

Q. Do you know what type of process that was?

A. Krausend.

Q. Do you know what type of beer Budweiser is manufacturing, according to what process it is manufacturing?

A. I have never heard it, I never heard it mentioned, I don't believe—

Q. Mr. Wombacher, the Atlas Company, does it advertise its beer as a premium beer?

A. No, sir; I don't believe it does.

Q. How about Edelweiss?

A. No.

Q. How about Falstaff?

A. Falstaff uses the word "premium" in their advertising.

Q. How about Stag?

A. No, sir; I don't believe so.

Q. What are the premium price beers that you handle?

John W. Wombacher, for Respondent—Redirect

A. Budweiser, Schlitz, Miller's, Pabst, Heileman's, Old Style, Hamm's; I believe that about runs it.

Mr. Mayer: That is all we have.

Redirect Examination by Mr. Barton:

Q. How about Blatz, do you handle Blatz?

A. Yes, sir.

Q. Where does Blatz fit into the price structure in your store?

(401) A. Well, it is in kind of a place all by itself. It is a premium, supposedly a premium beer. However, we pay slightly more for it than we do for Stag, Falstaff and Griesedieck.

Q. What do you sell it at?

A. We sell it at \$1.03 for a six-pack, a nickle more than Falstaff and Stag, and a nickle under the Budweiser and Miller's and Schlitz.

Q. What was the situation in 1953 with respect to Blatz, if you remember?

A. At that time, Blatz, we were selling it for a premium price, the same as Budweiser, Schlitz, and Miller's.

Q. When did that switch take place between Blatz being sold as a premium beer and now in between Falstaff and Budweiser?

A. It has more or less come about, I should say, in 1954, right around a year and a half to two years ago. Actually, the price structure on it has not changed too much; but by what is known commonly as a business deal, they give you free merchandise for certain purchases.

Q. And that permits you to sell it cheaper?

A. That permits us to sell it cheaper, yes.

John W. Wombacher, for Respondent—Redirect

Q. Do you have any experience, Mr. Wombacher, as to how many of your customers are regular customers for the same type of beer every time they come in?

A. I would say 95 of our customers; there is very little change back and forth.

(402) Q. Has there been any reduction in beer prices from the wholesalers to you since January 1, 1954 on the types of beers you handle?

A. Not since 1954, no, sir.

Q. In other words, the last price change you had was when Budweiser, Schlitz, the national shipping beers, went up in October of 1953?

A. That is right.

Q. You say you have been in business now 9 years? What were you doing before that time?

Mr. Mayer: I object to this. This is not related to the original examination; this is redirect.

Mr. Barton: In part.

Hearing Examiner Hier: Sustained.

Mr. Barton: That is all.

Hearing Examiner Hier: Thank you, Mr. Wombacher. We will take a five-minute recess.

(A short recess was taken.)

H. F. Thompson, for Respondent—Direct

Mr. Barton: Mr. H. F. Thompson.

(403) H. F. THOMPSON was thereupon called as a witness by Respondent and, having been first duly sworn by the Examiner, testified as follows:

Direct Examination

Hearing Examiner Hier: What is your name, sir?

The Witness: H. F. Thompson.

By Mr. Barton:

Q. Where do you reside, Mr. Thompson?

A. 1831 South Garrison, Carthage, Missouri.

Q. Carthage, Missouri? What is your business?

A. I am in the package liquor business.

Q. Where is your business located?

A. At 319 South Garrison in the same city.

Q. How large a town is Carthage?

A. Oh, about 11,000, I think is about what it is.

Q. How far is it from St. Louis?

A. Oh, approximately 300 miles.

Q. How long have you engaged in the package store business?

A. Since the early part of 1946.

Q. What did you do prior to that time?

A. I operated a restaurant for a little while before that.

Q. Pardon?

A. I operated a restaurant before that, and then before that, in 1945, I was discharged from the service.

Q. What branch of the service were you in?

(404) A. Air Corps.

Q. What products other than beer and liquor do you sell?

H. F. Thompson, for Respondent - Direct

A. Just the necessary items engaged in that business. It is classified as a tobacco store.

Q. What brands of beer do you sell?

A. We have Stag, Falstaff, "Griese", Budweiser, Schlitz, Miller's High Life, Pabst—I forgot one—Muehlebach.

I have got a bunch, what I consider "dogs," that I have got in there, Muehlebach and a few of the other beers. I can't think of them right now.

Hearing Examiner Hier: Mr. Thompson, will you speak more slowly.

The Witness: Yes, sir.

Hearing Examiner Hier: It is somewhat difficult for the reporter to catch all these proper names in rapid conversation.

The Witness: All right.

By Mr. Barton:

Q. Mr. Thompson, have you produced a list of these various purchases of beers you handle and which you named for 1953, 1954 and 1955, broken down by month?

A. Yes, I have.

Mr. Barton: May I have it, please?

(The documents were marked Respondents Exhibit 64-A through H, inclusive, and Respondent's Exhibit 65-A through C, inclusive for identification.)

(405) *By Mr. Barton:*

Q. You supplied Exhibit 64-A through H as your purchases of your brands that you named in those years, did you not?

A. I did.

H. F. Thompson, for Respondent—Direct

Q. Is 65-A through C, Exhibit 65-A through C, a summary of your purchases of those brands, 65-A being a summary by years of those brands, and 65-B and C being a summary of those brands by months of each of the years?

A. They are.

Mr. Barton: I offer in evidence 64-A through H, and 65-A through C.

Mr. Mayer: I have no objection.

Hearing Examiner Hier: Admitted.

(The documents referred to, heretofore marked Respondent's Exhibits 64-A through H, and 65-A through C for identification, were received in evidence.)

By Mr. Barton:

Q. Do you wait on the trade yourself, Mr. Thompson, in your place of business?

A. Yes, sir.

Q. How many other employees do you have?

A. One, actually, that can be considered an employee.

Q. What was your highest selling brand in 1953?

A. Griesedieck.

(406) Q. And approximately what percentage of your business did it account for, your beer business?

A. About 43 per cent.

Mr. Mayer: Mr. Examiner, we are in the same area of the questioning again. I think the exhibits are going to show all the figures asked by the supplier's counsel.

Hearing Examiner Hier: Do they, Mr. Barton?

Mr. Barton: Yes, they do, and we can go to a general question which, I think, will save a lot of time.

H. F. Thompson, for Respondent—Direct

By Mr. Barton:

Q. Mr. Thompson, what is the fact as to whether or not your Griesedieck Brothers beer declined in 1954 against 1953?

A. What is the fact, you ask?

Q. Yes.

A. Oh, just generally the decline came in the latter part of 1954, the greatest decline, and I think it was mainly due to that Krausend beer they put out. We had, oh, it was more or less of a local ribbing on that, on that particular name of a beer. They wanted to know what in the world "Krausend" meant, and that is the only reason I know of that any decline happened at all.

Hearing Examiner Hier: Let us get this name straightened out.

The Witness: Krausend, I don't know how to spell it.

(407) Mr. Barton: Your Honor, it is pronounced according to the advertisement "Kroyseid".

Hearing Examiner Hier: "Kroyseid".

Mr. Barton: Apparently there was a different pronunciation given to it by the Illinois purchaser than Missouri. The fact is in the advertisement which has been marked in evidence, the pronunciation which is indicated by G.B. is "Kroyseid", is the reference in the advertisement.

By Mr. Barton:

Q. Was there a play on the word "Krausend" by some of the purchasers?

A. Oh, yes, just general ribbing was the main thing, you know, wondering what they were going to do next, and that all came even within the fancy cans and things of that nature, you know. My customers wanted beer; they didn't

H. F. Thompson, for Respondent—Direct

care what kind of a can it came in. It was not displayed, and we would shell them out six at a time.

(408) Q. Mr. Thompson, did you or did you not receive complaints from your customers in 1954, about the quality of Griesedieck Brothers beer?

A. I did.

Q. What were the nature of those complaints?

A. Most of them just tasted green to them—that was about all.

Q. In other words, your customers would—were these people who had been buying Griesedieck Brothers beer from you in the past, who made complaints?

A. All of them were, yes. I can't name anyone of them, but they were all baseball fans also, another deciding factor there.

Q. What is this baseball, what is the reference to baseball in connection with their drop off in sales?

A. Not having the baseball team, I mean, you know, they all prefer the Griesedieck as baseball beer.

Q. Do you mean by that the Griesedieck Brothers had broadcast the Cardinals in 1953 and prior years?

A. Yes.

Q. And in 1954 they did not?

A. Well, I don't know about—they didn't do it in 1954. Frankly speaking, I can't tell you whether they broadcast a game in 1954 or not, now that you mentioned it.

Q. Do you attribute part of their loss of sales to their (409) not broadcasting the Cardinals?

A. That is what I am speaking of, the current date, as of now, I mean, my reference was to that.

Hearing Examiner Hier: I don't get this. Do you mean to tell me that if Griesedieck Brothers beer is broadcast at the same time that the Cardinals games go on the television programs and then they change to Miller, why

H. F. Thompson, for Respondent—Direct

everybody, a good proportion of the people that look at the televised broadcast of the games of the Cardinals change to Miller. I don't understand that.

The Witness: I am making the statement in respect to my own personal—

Hearing Examiner Hier: I understand that.

The Witness: —business.

Hearing Examiner Hier: Yes.

The Witness: That was the reason why it happened that way, because the boys stayed, they buy premium priced beer. They always have. The majority of them that have quit Griesedieck have gone back to premium priced beer, and which is Budweiser and Schlitz, my two best sellers.

Hearing Examiner Hier: One of the reasons for that, you say, is that Griesedieck quit associating its name with the Cardinals, on a televised broadcast?

The Witness: That is the fact, in my estimation.

By Mr. Barton:

(410) Q. That is on the radio broadcast?

A. That is on the radio broadcast.

Q. In other words, what you are saying is that the fact of Griesedieck Brothers no longer broadcasting the Cardinals name, was one of the influences on its business?

A. That is right.

Q. When the customers who had complained about Griesedieck Brothers beer came in, what did they say to you, what was their complaint?

A. "What is wrong with that beer?"

Q. Did they make any description of it? Did they say in their words what was wrong with it?

A. Just "green beer", that was all.

H. F. Thompson, for Respondent—Direct

Q. What do they mean by "green beer"?

A. That is a term. I don't know, either.

Q. But that is what they said?

A. Yes.

Q. Were you familiar with the fact that Griesedieck Brothers came out with a Krausend—you were familiar with the fact that they came out with this Krausend beer in 1954?

A. The advertising told me so, yes.

Q. It was about that time that the complaints came from the customers?

A. Almost simultaneously.

Q. Has there been any change in the price of Budweiser or (411) the other beers which you sell since January 1, 1953, that is, in the price to you?

A. None.

Q. And at what price do you sell 6-pack Budweiser?

A. \$1.10.

Q. \$1.10?

A. Yes.

Q. What price do you sell Falstaff, Stag, Griesedieck?

A. \$1.05.

Q. How many different prices do you have as price classes—you have the Budweiser, the Miller price, that is the \$1.10 price.

A. \$1.10.

Q. Then you have Griesedieck, Falstaff, Stag—that is \$1.05?

A. Yes.

Q. Do you have any other brands that sell cheaper than that?

A. No.

H. F. Thompson, for Respondent—Cross

Q. Do you know what price—do you handle Hamm beer?

A. I just got it here recently.

Q. What price do you sell Hamm's at?

A. Premium price, \$1.10.

Q. Who first contacted you about being a witness in this case?

A. Mr. Clyde Love.

Q. Who is he?

(412) A. Local distributor.

Q. For whom?

A. Budweiser.

Q. Have you talked with Mr. Ingamells and Mr. Hallquist?

A. I have.

Q. Are you indebted in any way to Anheuser-Busch?

A. None.

Q. Is Anheuser-Busch paying your expenses to come to Washington?

A. They are.

Q. You are testifying pursuant to subpoena, are you not?

A. I am.

Q. Are you related to any employee of Anheuser-Busch?

A. No.

Mr. Barton: I believe the exhibits have already been offered and received in evidence. You may cross-examine.

Cross examination by Mr. Mayer:

Q. Mr. Thompson, directing your attention, sir, to the exhibit which is Respondent's Exhibit 65-A, does that represent all of the brands of beer handled by your store?

H. F. Thompson, for Respondent—Cross

A. Except for the two recent ones, Muchlback and Hamms, which are not any good in this figure here. That only went so far as the 1st of November.

Q. And are your sales, sir, confined to off premise sales?

(413) A. Only.

Q. How many such off premise outlets are there in Carthage, Missouri?

A. Four.

Q. How long have you been offering Budweiser for sale?

A. Since 1946.

Q. How do you purchase your Budweiser?

A. From the local distributor, by truck.

Q. He delivers to your door?

A. Delivers by truck, yes, sir.

Q. Is it a call system—does he call on you regularly and take your order at your establishment?

A. Yes, once a week.

Q. Now, sir, just when was the Krausend process introduced by Griesedieck Brothers into your establishment?

A. The first day that they brought it down there, and I think it was March, I believe, or April. I have forgotten now.

Mr. Barton: That is of 1954.

The Witness: That was 1954, yes.

By Mr. Mayer:

Q. Did you have some complaints about that type of beer?

A. I did.

Q. What did you do about them?

A. Told them I was sorry, out of my control.

(414) Q. Did you report it to the Griesedieck Brothers salesman?

H. F. Thompson, for Respondent—Cross

A. I did.

Q. Does he call on you regularly?

A. About three or four times a week.

Q. What did he do about it, sir?

A. Nothing that I know of.

Q. Did he replace any of it for you?

A. No, I didn't replace any for anybody else.

Q. Was the Krausend process withdrawn by Griesedieck Brothers from your store?

A. No, I still continue to sell it.

Q. You still continue selling Griesedieck Brothers beer brewed by the Krausend process, advertised by Griesedieck?

A. Yes.

Q. Do you know what process Budweiser is brewed according to?

A. No, sir, I don't.

Hearing Examiner Hier: What process is it brewed by? This is the third time a man has been asked this question. Let us get it in the record.

Mr. Barton: We will have a witness on the stand. We will bring it out.

Hearing Examiner Hier: All right.

Mr. Mayer: That is all we have, Mr. Examiner.

Hearing Examiner Hier: Mr. Thompson, have you had (415) any experience in your package store which would qualify you to tell me whether or not a nickel difference on a 6-pack beer package, would make any difference?

The Witness: Frankly, sir, not at my location, I don't think it is of any importance whatsoever.

Hearing Examiner Hier: All right.

H. F. Thompson, for Respondent—Redirect
Kenneth Blair, for Respondent—Direct

Redirect examination by Mr. Barton:

Q. What type of location are you in?

A. I am in a package liquor store, drive-in service. There is no inside traffic hardly at all. I just got one price for each classification. They come up and get it. They ask for their own personal brand of beer and we have got it for them and they are gone. That is all there is.

Q. Are you in a high economic area, that is in the part of town in which you are located?

A. I consider my clientele a little higher class, in other words.

Hearing Examiner Hier: Anything more.

Mr. Mayer: No, no.

Hearing Examiner Hier: You are excused.

(Witness excused.)

Mr. Barton: Mr. Kenneth Blair.

KENNETH BLAIR was thereupon called as a witness for the Respondent and, having been first duly sworn, testified (416) as follows:

Hearing Examiner Hier: What is your first name?

The Witness: Kenneth Blair, B-l-a-i-r.

Direct examination by Mr. Barton:

Q. Mr. Blair, what is your residence?

A. 3101 South Adams, Peoria, Illinois.

Q. What is your business?

A. I am in a tavern and package liquor.

Kenneth Blair, for Respondent—Direct

Q. And what brands of beer do you handle in your tavern and package store?

A. Well, I handle the most popular premium beers and most popular lower priced beers.

Q. Are there several price levels at which those beers are sold?

A. There is.

Q. What are those price levels?

A. 20¢, 25¢ and 30¢.

Q. The 30¢ beers are?

A. Budweiser, Schlitz, Pabst, Millers, Hamm's, and Blatz.

Q. Do you handle Old Style?

A. Yes.

Q. That is a 30¢ beer?

A. Yes.

Q. The 25¢ beers are what?

(417) A. "Griese", Falstaff, Stag, and Busch Lager.

Q. The 20¢ beers are?

A. Gipps and Star Model.

Q. Do you notice any change in your Griesedieck Brothers business since 1953?

A. I have.

Q. What has been the nature of that change?

A. I had a decline in sales.

Q. How many cases did you usually have on hand of Griesedieck Brothers beer in 1953 as a general rule?

A. Well, I most generally carried 25 to 30 cases of pints and maybe 10 to 15 cases of 24 packaged cans.

Q. What do you keep on hand now?

A. Four to five cases of pints and two cases of cans.

Kenneth Blair, for Respondent—Direct

Q. And when did that change in your Griesedieck sales take place?

A. I would say early in 1954 it started down bad.

Q. And what, if any, reaction did you have from your customers about at that time that it started down?

A. Well, I had—I have a family tavern, and I know all of my customers. I can call them by their nicknames. I know when the kids are sick or anything. My cook in the tavern drank Griesedieck all of the time. So they changed the label. She said I gave her a different type of beer.

"Next time I don't want any more of that", she said.
(418) I showed it to her before.

"What is the matter with it?"

She said, "Something wrong with it. It is spoiled."

So I tasted it myself. And I don't drink Griesedieck or I don't drink a lot of any kind of beer. My reaction was that it tasted bitter like a copper, like a can of tomatoes that had been opened or peas, for a while.

Q. When was that?

A. That was in the spring of 1954, I believe.

Q. Was that about the time that your Griesedieck Brothers sales dropped off?

A. That is when it started down. Right quick it did start down. When Vi quit, it did start down.

Q. To what brands did the customers who had been drinking Griesedieck Brothers switch in your tavern?

A. Primarily they went to Falstaff, Stag.

Q. Have you brought a tabulation showing your purchases of the various brands of beers which you handled in 1953 and 1954?

A. I have.

Q. 1952, 1953 and 1954?

A. I have.

Kenneth Blair, for Respondent—Direct

Hearing Examiner Hier: The next number is Exhibit 66. How many pages do you have there?

Mr. Barton: One page.

(The documents referred to were marked Respondent's (418-A) Exhibits 66 and 67, for identification.)

Mr. Barton: Exhibit 66 is a tabulation of the actual cases, and draft beer purchased on each of these brands in 1952, 1953 and 1954.

Exhibit 67 is a summary of those figures which shows the percent of total of each of the brands in the business and the change from year to year.

By Mr. Barton:

Q. Exhibit 66 was made up by you, was it?

A. Yes, sir.

Q. And Exhibit 67 is an accurate summary of the figures on Exhibit 66, is it not?

A. Yes, sir.

Mr. Barton: I offer in evidence Exhibit 66 and 67.

Mr. Mayer: May I ask a question?

Examiner Hier: Yes.

Mr. Mayer: Who compiled Exhibit 67?

The Witness: Which is 67?

Mr. Mayer: This one—who made this?

The Witness: I believe my bookkeeper had something to do with that.

Mr. Mayer: Was it made under your supervision?

Mr. Barton: No, this was made by us.

The Witness: Those are my figures. I haven't seen it yet.

Kenneth Blair, for Respondent—Direct

(419) Mr. Mayer: You haven't seen it yet?

The Witness: Let me look at it. May I see that other one, please, too?

Mr. Mayer: I am sorry.

The Witness: These are my actual figures.

Mr. Mayer: Who did you say prepared No. 67?

The Witness: I believe someone prepared it for me and gave me those percentage figures. I only have them case wise.

Mr. Mayer: Who was someone now, sir?

The Witness: I don't know. Mr. Hallquist—did he figure this for me? Yes, sir.

Mr. Mayer: We have no objection.

Hearing Examiner Hier: Admitted.

(The documents heretofore marked Respondent's Exhibits 66 and 67 for identification, were received in evidence.)

By Mr. Barton:

Q. Mr. Blair, the people, your customers whom you say you know all of them that come in, have they gone back to Griesedieck Brothers after they left?

A. No, sir, they have not.

Q. You personally wait on the trade in your tavern?

A. I do.

Q. What is the fact as to the regularity with which the (420) customers order the same brand of beer time after time when he comes in?

A. When he opens the door I can open the bottle.

Q. Did you hear any play on words by your customers with regard to this term "Krausend"?

A. Vi nicknamed it to "poison."

Kenneth Blair, for Respondent—Direct

Q. In other words, there was a play on the word "Krausend."

A. There was—it was not too much—like I say, I have those real close people to me, and they name it "poison" and they have different names. My Griesedieck distributor told me that Krausend means "aging."

Q. Means what?

A. Means "aging." I can't find it in the dictionary but that is what he told me.

Q. Who is paying your expenses to come here?

A. Anheuser-Busch.

Q. How were you first contacted with respect to testifying here?

A. From Gene and Mel Cook in Peoria, Illinois—they are my distributors.

Q. Your Budweiser distributors?

A. Yes.

Q. Are you indebted in any way to Anheuser-Busch?

A. No, sir.

Q. Do you have any relatives who are employees of (421) Anheuser-Busch?

A. No, sir.

Q. You are appearing here pursuant to subpoena, are you not?

A. Yes, sir.

Q. Did you have any experience with wild beer in the Griesedieck beer that you received?

A. Some I did.

Q. When was that?

A. That was in early 1954, also, I believe at the same time.

Kenneth Blair, for Respondent—Direct

Q. What is the fact, Mr. Blair, as to the effect which one of your customers getting wild beer or bitter tasting beer would have on future purchases of that brand even if the brand returned to normal?

Mr. Mayer: Objection, unless the question is confined to his particular knowledge of that particular customer involved.

Mr. Barton: That is what it is.

Hearing Examiner Hier: All right. Take the amendment.

The Witness: What was the question?

By Mr. Barton:

Q. What is the effect on a customer of yours who has been drinking a brand regularly like Griesedieck, and then (422-432) they got some wild beer or some beer that tasted bitter, with respect to their future purchases of that brand when it might return, and lost that difficulty?

A. They would definitely quit, I believe.

Hearing Examiner Hier: Wait a minute. Did they or you believe that?

The Witness: They did.

By Mr. Barton:

Q. In other words, they haven't returned to Griesedieck Brothers lately?

A. Have not. Vi has never drunk another bottle of Griesedieck.

Q. I notice that your sales of Griesedieck Brothers in 1953 were 500 cases. How many customers would you say that 500 cases represented?

A. I would say 10 to 12.

Q. 10 to 12 customers?

Kenneth Blair, for Respondent—Cross

A. Yes, sir.

Q. How many of those customers switched between 1953 and 1954?

A. Definitely two.

Mr. Barton: That is all.

Cross-examination by Mr. Mayer:

Q. Mr. Blair, would you give us the names of the two customers that switched?

(433) A. Violet Brown and Verne Hanson.

Q. Is it Miss Brown?

A. Mrs. Brown.

Q. Is she still employed by you, sir?

A. No, sir. She is in every day.

Q. She is?

A. Every day.

Q. Now, sir, how long have you handled Budweiser, Mr. Blair?

A. Since May 1951.

Q. How long have you been in the liquor business?

A. Since May of 1951.

Q. Do you sell on and off premises?

A. Yes, sir.

Q. How many taverns—would that be the proper name for it, sir?

A. Yes, sir.

Q. How many taverns similar to yours are there in Peoria, Illinois?

A. 240.

Q. 240?

A. Yes, I think that is right. Might have lost a couple.

Q. And how do you purchase your Budweiser beer, sir?

Kenneth Blair, for Respondent—Cross

A. Just like all of my other distributors, once a week, only Budweiser I have draft beer and I get twice a week service.

(434) Q. You buy it through the Budweiser distributors?

A. Yes.

Q. What is the name of it?

A. Brewers Distributing Company.

Q. Do you purchase all of your other beers which you offer for sale through the distributor, sir, rather than direct from the factory?

A. We have one from the factory. That is all.

Q. Which one is that?

A. Gipps Brewing Company and they are out of business now.

Q. Directing your attention to Respondent's Exhibit 67, does that represent all of the beers sold by your company?

A. No, sir.

Q. What other beers do you offer for sale, sir, or did you in 1954?

A. I gave them to him, Star and Gipps and Hamms is not on there, Old Style not on there? I took my five leading beers or six, whatever they are there.

Q. In other words, the percentages on Exhibit 67 are related only to the total sales of those five beers, not total sales of the beers in your store?

A. These are the total sales of these five only.

Q. Mr. Blair, was there any explanation given to you by the Griesedieck salesman concerning the introduction of a new processed beer in the Spring of 1954?

(435) A. Yes, there was.

Kenneth Blair, for Respondent—Cross

Q. And did you register any complaints with him concerning that beer?

A. I registered complaints.

Q. What did he do about it?

A. Just a minute. You asked me was there introduction of the beer to me.

Q. Yes, sir.

A. They piled some cases up and put the big sign "Krausend" and took my picture by it. I still have it.

Q. I understand in disposing of that beer, as I understand it, you received several complaints concerning the quality of the beer?

A. Not right off hand. Within a week or so I did because I had the old label and we rotate beer, old on top and new underneath.

Q. What did the Griesedieck salesman do about those complaints?

A. He did nothing. At that time we changed distributors again. We had three there, we have had three different distributors in three years.

Q. As I understand it then, almost coincidental with the introduction of the Krausend process Griesedieck Brothers also changed distributors in Peoria?

A. Not right at the time, no, a little later right after (436) Krausend took place.

Q. And the new distributor did nothing about the complaints which you registered?

A. I don't know what he did. He didn't do anything to me. I just told him that the customers said that it was spoiled, it was sour, it was bitter taste. And he said, "I believe it is in your mind, we haven't any other complaints."

Kenneth Blair, for Respondent—Cross

So I took it on myself to find some more information. I mean I have some friends, I was secretary of a little organization we have, and we discussed it at meetings, that Griesedieck sales was down in all of the taverns in my neighborhood.

Q. Was the Krausend type process beer withdrawn by Griesedieck?

A. I don't know.

Q. Is it still selling beer brewed according to that process?

A. I don't think they have buying signs like they did. Right across the street from me there was a big billboard, "It is Krausend." That is gone. I don't look out of the window every day, out of the window every day and see that any more.

Q. Do you know what process Budweiser is brewed according to?

A. Only what it says on the label.

(437) Q. What is that, sir?

A. Choices barley, malt, rice and malt.

Q. That tells you what is in it.

A. It says on the label.

Q. How about the brewing process by which it is brewed?

A. I don't know how it is brewed.

Mr. Mayer: That is all.

Hearing Examiner Hier: Do you sell some beer over the counter, over the counter at 30c and other beer at 25c?

The Witness: Yes.

Hearing Examiner Hier: Why?

The Witness: Because it costs more per case.

Kenneth Blair, for Respondent—Redirect

Hearing Examiner Hier: How much more per bottle does it cost?

The Witness: Well, Stag, per bottle, Stag is \$2.00 a case and Budweiser is \$3.74, I believe.

Hearing Examiner Hier: I can't divide 24 into that so rapidly.

The Witness: It amounts to about a penny and half more a bottle when you sell at 30c.

Hearing Examiner Hier: So you make more money by selling premium priced beer?

The Witness: Very little, \$6.00.

Redirect examination by Mr. Barton:

(438) Q. In connection with Exhibit 67 and the beer which are listed thereon, what percentage of your total beer business is Budweiser of the five?

A. I would say that is 85 percent of all of them.

Mr. Barton: Thank you.

Hearing Examiner Hier: Anything more from the witness?

Mr. Barton: No.

Hearing Examiner Hier: Thank you, Mr. Blair.

(Witness excused.)

Ray Wilkes, for Respondent—Direct

RAY WILKES was thereupon called as a witness for the Respondent, and having been first duly sworn, testified as follows:

Hearing Examiner Hier: State your name, sir.

The Witness: Ray Wilkes.

Direct examination by Mr. Baker:

Q. Mr. Wilkes, will you give us your home address, please?

A. 1906 Pearl Avenue, Joplin, Missouri.

Q. In what type of business are you engaged?

A. Tavern operator.

Q. And what is the address of your tavern?

A. 1802 South Main, Joplin, Missouri.

Q. How far is Joplin, approximately, from St. Louis?

A. Well, about 304 miles, I believe, is the exact.

(439) Q. In your tavern do you sell for on premise consumption only?

A. No, I also sell for take out.

Q. How long have you been at this present business address?

A. It will be five years next October 1st.

Q. You are the owner of the business?

A. I am.

Q. Mr. Wilkes, have you prepared figures showing your purchases of beer for the years 1953, 1954 and 1955?

A. I have.

Q. May I have them, please?

A. Yes.

Hearing Examiner Hier: All right, this is marked for identification at the request of counsel, Exhibits 68-A, 68-B and 68-C, the witnesses purchases of Falstaff beer during the years 1953, 1954, and 1955. And as Exhibit

Ray Wilkes, for Respondent—Direct

69-A, 69-B and 69-C, the same thing for Blue Ribbon Pale.

And as Exhibit 70-A, 70-B and 70-C, the same thing for Stag.

And Exhibit 71-A through 71-D, the same thing for Budweiser, plus 1955 purchases of Busch.

And as Exhibit 72-A and 72-B, the same thing for Fox head Ale.

And as Exhibit 73-A, 73-B and 73-C, the same thing for Country Club Beer.

(440) And as Exhibit 74-A, 74-B and 74-C, the same thing for Millers High Life.

And as Exhibit 75-A, 75-B and 75-C, the same thing for Muehlbach Beer.

And as Exhibit 76-A, 76-B and 76-C, the same thing for Schlitz.

And as Exhibit 77-A, 77-B and 77-C, the same thing for Griesedieck.

(The papers referred to were marked Respondent's Exhibits 68-A, 68-B, 68-C, 69-A, 69-B, 69-C, 70-A, 70-B, 70-C, 71-A, 71-B, 71-C, 71-D, 72-A, 72-B, 73-A, 73-B, 73-C, 74-A, 74-B, 74-C, 75-A, 75-B, 75-C, 76-A, 76-B, 76-C, and 77-A, 77-B, 77-C for identification.)

By Mr. Baker:

Q. Did you personally prepare these?

A. My wife and I, yes.

Q. Does this represent all of your beer purchases for the time period shown?

A. Yes.

Mr. Baker: I offer these.

Mr. Mayer: No objection.

Ray Wilkes, for Respondent—Direct

Hearing Examiner Hier: Received. They will be admitted in evidence then.

(The papers referred to, heretofore marked for identification Respondent's Exhibits 68-A, 68-B, 68-C, (441) 69-A, 69-B, 69-C, 70-A, 70-B, 70-C, 71-A, 71-B, 71-C, 71-D, 72-A, 72-B, 73-A, 73-B, 73-C, 74-A, 74-B, 74-C, 75-A, 75-B, 75-C, 76-A, 76-B, 76-C, and 77-A, 77-B, 77-C, were received in evidence.)

By Mr. Baker:

Q. Do you have with you a recapitulation that I handed to you yesterday afternoon and asked you to check against these figures?

A. I believe I have. Is this what you are referring to?

Q. Yes. Have you checked this recapitulation against your figures? Are you satisfied that it is correct?

A. I am satisfied. It checked out.

Hearing Examiner Hier: That will be Exhibit No. 78.

(The paper referred to was marked Respondent's Exhibit 78 for identification.)

By Mr. Baker:

Q. Without going into great detail, Mr. Wilkes, Rx78 shows, does it not, that your total beer business went down 22 percent in 1954 over 1953, but that your Griesedieck business went down 31 percent. Is that correct?

A. That is right.

Q. And it further shows that the real decline in Griesedieck began in March of 1954, does it not, with a 28 percent decrease?

(442) A. 28.35, yes.

Ray Wilkes, for Respondent—Direct

Q. Then that built up to July decline of 48 percent, in September 58 percent, is that correct?

A. That is right.

Q. Generally, how were your Falstaff purchases in 1953, 1954 and 1955?

A. Falstaff, they went way up in sales, they increased, I'd say, 40, 45, maybe 50 percent.

Q. Mr. Wilkes, to what do you attribute the decline setting in in March of 1954 in your G.B. purchases and sales?

A. Well, I contribute that to complaints from the customers.

Q. What were the nature of the complaints that you received.

A. Some of them complained that the beer was new beer, that the beer was green beer, and some of them didn't like the idea of Griesedieck taking that baseball broadcast out of that territory up there in Jasper County, that is the county that Joplin is in, and then four or five of the, my regular customers, of course I have a family neighborhood tavern—they complained about contracting a dysentery effect from this beer. They claim it gave them a running-off.

Q. Then they switched and went off, quit purchasing?

A. Yes. Most of them went to Falstaff. Some of them went to Stag.

Q. Do you remember who some of those people were?

(443) A. Yes, I remember them: Konk Kelly, Rusty Quillan. I could name four or five others that comes in there every day, just every day. And I happened to know that they switched over because they had always been Griesedieck, and I thought, well, my goodness, why the

Ray Wilkes, for Respondent—Direct

decrease in my sales here, and I got to asking some questions, and they told me, told me that it was either new beer or green beer.

And Rusty and them boys, and Red King was one that told me, I don't know he took some milk and hot milk and nutmeg to check it and we conversed on it and that is it.

So in the meantime, I went to check it, and Falstaff had increased practically about the same amount that Griesedieck had decreased. So I just—

Q. Did you report this to your distributor of Griesedieck?

A. Yes. I reported to, oh, after I started getting quite a few complaints, I reported to my distributor who at that time was Colombo Massey, and he said, "Well, I don't know what to do about it, Ray." He said, "I am getting out from underneath the headache because I am selling my business over to Frank Evans, Jr.

So he says, "It is his baby and his headache from now on."

Q. Did you report to the new distributor?

A. I did. He came by and introduced himself and I told him, I said, "I am not doing as good with Griesedieck as I used to (444) do. I am getting quite a few complaints about the beer being green and different other things." I said, "Have you have any other complaints?"

He said, "Yes," but he thought it was—he says, "I think it is this one carload that we have got." "But", he said, "I don't know what is wrong with the beer or anything, but", he said, "I have had several other complaints down the street." I think he was referring to some other taverns.

Ray Wilkes, for Respondent—Direct

Q. Did you ask for any adjustment or had you take back any beer?

A. I asked for some adjustments, oh, not very many of them, that pushed the beer like that and, if they took something else, I gave it to them, providing it was at the same price, the 20c can of beer.

And then I kept them all up in there and when the distributor sent his regular routeman around

Q. Let me ask you this, Mr. Wilkes: Have you ever had any occasion to make a complaint to any other distributor under such circumstances?

A. Well, no; not under those circumstances, no. Occasionally I have pulled a cap on a bottle of beer and it probably not be. Millers High Life have quite a few on account of they tell me it is on account of being put up in a glass bottle, plain bottle, you see. Now, the beer would be flat or something. You could tell it when you would pour it out. It would have no (445) head to it. But not like—no complaints like I did have from Griesedieck.

Q. During 1954, Mr. Wilkes, at what prices over the bar were you selling Falstaff, "Griese", Stag, Budweiser and Schlitz?

A. 20c a bottle and 20c a can.

Q. For all of them?

A. Yes, uh uh.

Q. Including Budweiser?

A. No, no. Budweiser and Blue Ribbon and Schlitz and Millers High Life is what I call premium beer and I get 25c for it and 25c for it in cans. That is the beer that I do handle. I don't handle Millers High Life or Pabst Blue Ribbon in cans any more.

Ray Wilkes, for Respondent—Direct

Q. Did you try the Griesedieck beer yourself when you got customer complaints?

A. No, I don't drink one of them, you see, I pull the early morning shift. I never drink when I am on duty.

Q. You tend bar yourself?

A. I do, I open up and work from 7:00 o'clock in the morning until 5:00 in the evening.

Q. What percent of your customers that come in during the average day would you say you know by their first names?

A. I'd say 97 percent of them.

Q. And can you reach for a bottle when they come in the (446) door?

A. Sure, that is 95 times out of 100 I can figure out what Rusty or John or Harry or Tom is going to take.

Q. Those people that switched from Griesedieck, are they steady now with another beer? I think you mentioned they went to Falstaff, some of them.

A. Yes.

Q. Are they steady with them or do they jump around and try one and then another?

A. No, they go along pretty good. Some have switched over to Budweiser beer on account of Harry Carey—that family tavern around, that tavern is quite a baseball and sport corner up there. And it is the same way. I had a few people that was drinking Pabst, Blue Ribbon. Well, down in our territory they eliminated the Wednesday night fight, which was put on by Pabst Blue Ribbon and some of them got sore about it and quit drinking Pabst Blue Ribbon on that account.

Q. Mr. Wilkes, who first talked to you about the possibility of testifying in this case?

Ray Wilkes, for Respondent—Direct

A. Budweiser distributor in Joplin, Clyde Love.

Q. You have talked to Mr. Hallquist and Mr. Ingamells, haven't you?

A. Yes.

Q. And Anheuser-Busch is paying your expense to Washington?

A. That is for sure, I hope.

(447) Q. Are you indebted financially or otherwise to Anheuser-Busch?

A. No, not indebted to any of them. I pay cash and carry.

Q. Are you testifying here under subpoena?

A. Yes, sir.

Q. Are you related to any employees of Anheuser-Busch?

A. No.

Mr. Baker: That is all. You may cross-examine.

Hearing Examiner Hier: You have given us the reasons why they quit drinking Griesedieck beer in your place. Why did they go to Falstaff instead of Budweiser, Millers, Pabst, etc.?

The Witness: Well, your Honor, I believe it is on account of it being the same price as Griesedieck was. It is a 20¢ beer.

Hearing Examiner Hier: You sold some other 20¢ beers there, didn't you?

The Witness: I sold Stag and Country Club, yes.

Hearing Examiner Hier: Why didn't they go to Country Club, do you know?

The Witness: No.

Hearing Examiner Hier: Why did they switch to Falstaff?

Ray Wilkes, for Respondent—Cross

The Witness: The only thing, the only reason why I can say they switched over to it was on account of the (448) distributor down there is pretty well liked man.

Cross Examination by Mr. Mayer:

Q. Mr. Wilkes, how many liquor outlets similar to yours are there in Joplin?

A. There is 56—I believe it is 56 or 58 of them on Main Street. I don't know about off main street. I don't know how many more there is. There is probably 250 in the entire town. That is, package stores. That is what you are referring to?

Q. Package stores or taverns?

A. I would say around 250, something like that.

Q. And as I understand it, in the operation of your tavern you sell both on and off premises, do you not?

A. That is right.

Q. How long have you handled Budweiser?

A. About a year and a half now. You mean on tap?

Q. No, sir, in cans or bottles or anything.

A. About going on five years, every since I have had the saloon, I have had Budweiser canned, Budweiser bottled beer.

Q. Do ye have Budweiser now on tap?

A. I have had it now for little over a year.

Q. What did you have prior to that?

A. Schlitz.

Q. How do you purchase your Budweiser beer?

(449) A. Driver calls on me every morning.

Q. That is for either the draft or the package beer?

A. Draft and package.

Ray Wilkes, for Respondent—Cross

Q. In answering the examiner's question, Mr. Wilkes, I took it from the answer that in your tavern you have several price conscious customers that the switch was from one 20c to another rather than the premium priced beer.

A. What I meant by that, most of my customers consist of working boys. And five and ten cents difference in price on beer or whiskey makes a big difference around there. You would actually be surprised how many will drink a 20c beer instead of a 25c beer. Most of the places downtown now they get 25c and 30c but I am up there this side, well there are two bakeries and Vickers plant, manufacturer of airplane parts for the government.

Q. Then as I take it then the 5 cents difference in the price is enough to influence the selection of the beer by the customers in your tavern which beer they will buy?

A. Well, I won't say it influenced them too much. But Your Honor, the way that he put it to me he asked me the reason why, I thought they went to Falstaff, and I thought the 20 cent price on Falstaff helped a little bit and then I thought that the distributor was such well known and popular fellow down there that he swung it over a little bit too.

Q. Directing your attention, sir, to your G.B. purchases (450) month by month 1953 and 1954 on Respondent's Exhibit 78, how do you account for the 48 percent decrease in June or in July that is the ten percent decrease in August, and the 58 percent decrease in September.

A. Weather conditions. I do quite a bit of business, beer business up there during hot months.

Q. Wasn't that the same hot month in 1953 as it was in 1954?

A. Hot month? I don't know. I don't remember what the weather condition was.

Ray Wilkes, for Respondent—Cross

Q. What has the weather got to do with the ten percent decrease figure that you show in August as opposed to the 48 in July and the 58 in September?

A. People just drink more beer or drink less beer according to the weather conditions, I believe.

Q. Isn't the weather the same, sir, generally for the month of August in 1953 as it for August of 1954?

A. I don't think always.

Q. Is this based on a comparative year basis month to month?

A. For 1953 and 1954?

Q. Yes.

A. Yes.

Q. Couldn't this 58 percent figure then in 1954 for September be due to weather disparity between September 1954 (451) and September 1953?

A. I don't understand what you mean, don't understand what you are getting at.

Q. I asked a simple question. It shows 48 percent decline for July.

A. That is right.

Q. Of 1954, as opposed to July of 1953, it shows a ten percent decline for the month of August for 1954, as opposed to the month of August, for 1953, and I want to know how do you account for that—well, it would be a 37 or 38 percent come back of Griesedieck Brothers during the August month of 1954.

A. Well, let me see here. Well this, this is the month that Griesedieck started to take that decline, really took it.

Q. What month is that, sir?

A. That month of August.

Richard E. Curren, for Respondent—Direct

Q. You mean it was not felt until August of 1954?

A. That it was starting to fail in July and then in August is where it really did take a drop in 1954.

Q. Your testimony is that it started to drop in July of 1954, is that correct, sir?

A. No, it didn't start to drop. It really had dropped in 1954.

Q. Your figures show a decrease of 48 percent in July of (452) '54?

A. Yes.

Q. But a decrease of only ten percent in August of 1954. To what do you attribute that comeback of Griesedick Brothers during the month of August in 1954?

A. Well, just probably was one of them good Griesedick months, maybe. I can't account for it.

Mr. Mayer: That is all we have, Mr. Examiner.

Hearing Examiner Hier: You are excused.

(Witness excused.)

RICHARD E. CURREN was thereupon called as a witness for the Respondent and, having been first duly sworn, testified as follows:

Hearing Examiner Hier: What is your name, sir?

The Witness: Richard E. Curren.

Direct examination by Mr. Barton:

Q. Did you give your residence, Mr. Curren?

A. Elk's Club, Springfield, Illinois.

Q. What is your business?

A. I operate a tavern, Springfield, Illinois, 205 Washington Street.

Richard E. Curren, for Respondent—Direct

Q. What brands of beer do you handle in your tavern?

A. I have Schlitz, Budweiser, and Pabst. I did handle Millers and I dropped Millers; now I got Stag, Balstaff, (453) "Griese", and Gold Top, Reich, that is a local beer.

Q. Have you prepared, or had prepared a tabulation of purchases in '53, '54 and '55, of each of those brands of beer?

A. I have, sir.

Mr. Barton: May I have them marked, please?

There is a separate tabulation for '53, '54 and '55, each of which are made up of multiple pages. I would like to have each marked a separate exhibit.

Hearing Examiner Hier: All right, Mr. Smith. There is marked for identification Exhibit 79-A through 79-K, witnesses purchases of various brands of beer during 1953 and as Exhibit 80-A through 80-J, the same thing for '54, and as Exhibit 81-A through 81-H, the same thing for nine months of '55.

And as Exhibit No. 82, a recap of the previous three exhibits.

(The papers referred to were marked Respondent's Exhibits 79-A through 79-K, 80 A through 80-J, 81-A through 81-H, and 82 for identification.)

Mr. Barton: In part.

Hearing Examiner Hier: In part.

By Mr. Barton:

Q. Mr. Curren, I show you Exhibit 82 for identification and ask you whether that is a recap made by me of certain of (454) the figures contained on Exhibit 79 through 81?

A. It is, sir.

Richard E. Curren, for Respondent—Direct

Q: It is true and correct so far as you have been able to determine?

A. Yes, sir.

Mr. Barton: I offer in evidence Exhibits 79-A-K, 80, 81 and 82.

Mr. Mayer: I only have one question. Is all of the basic material here, Mr. Barton, from which this exhibit is drawn, number 82?

Mr. Barton: Yes, it is.

Mr. Mayer: No objection.

Hearing Examiner Hier: It is admitted.

(The papers referred to, heretofore marked for identification Respondent's Exhibits 79-A through 79-K, 80-A through 80-J, 81-A through 81-H, and 82, were received in evidence.)

By Mr. Barton:

Q. I note from Exhibit 82 that your business total package beer business increased 37 percent in '53 to '54 while your Griesedieck Brothers business decreased four and four-tenths percent and that the percent of decrease in G.B. in the last six months was 20 percent.

What explanation in the last six months of '54, what explanation, if any, do you have for the drop off in 1954 Griesedieck Brothers sales by you in your tavern in the last six months of 1954?

A. Well, I base my reasons for the decline in Griesedieck first, primarily, is the baseball season. Our town is a baseball town. It always has been, and the Cardinals have always been their favorites. When Griesedieck had the broadcast, even though Budweiser was the sponsor they still drank Griesedieck. When Budweiser took over

Richard E. Curren, for Respondent—Direct

the broadcasting of the Cardinals Budweiser began to take hold.

Secondly, the difference in beer. My customers is like a family trade or the guys I went, the fellows I went to school with and grew up with and their families. 97 percent, 95 percent of my trade is regular. I have very few transient trade. When they walk in that door I know what he wants. When he walks in I grab for the Griesedieck bottle.

In the last six months or year, they stopped. I am no chemist. I don't know what is wrong with it. I sell what ever he wants. I am just the middle man. If he cares whatever he wants, if he is a good customer I will get it for him and I will sell it.

And third, I like the distributorship. That is another reason for decline of Griesedieck there. The fellow had Griesedieck was a topper man in the town. You couldn't beat it. He had it sewed up like Hyde Park was previous. They broadcast. Griesedieck took over and they got it. Griesedieck (456) lost the broadcast, and the attitude was that he did not need them. He would take care of the package store. That caused dissension. That aided in the decline of Griesedieck beer.

Q. What, if any, complaints did you receive from your customers about the Griesedieck beer in the middle part of 1954?

A. Naturally, you would hear different opinions. Everybody ain't got the same taste. I didn't pay too much attention. They just said, "It don't taste right." Just said, "Let me have another, give me Stag or Falstaff." They jumped from Stag to Falstaff.

Richard E. Carren, for Respondent—Direct

Q. You mean from Griesedieck Brothers to Falstaff?

A. When you have a couple, like a couple that drink three or four cases a week, when they switch over you can notice it.

Q. Were some of those three to four case drinkers the Griesedieck drinkers who switched?

A. Yes, sir.

Q. What price levels do you have in your store?

A. I have—I sell premium beer such as Schlitz, Pabst and Budweiser, 30 cents. Falstaff, Stag and "Griese" at 25 cents, and I sell Goldtop, which is the local beer, Reich at 20 cents.

Q. What is "Griese" 6-pack?

A. 6-pack, \$1.10. For Flagstaff \$1.05. I sell Reich's (457) bottles for a dollar, two for a quarter.

Hearing Examiner Hier: Are you talking about three or four cases a week—are you talking on premise or off premise?

The Witness: On premise.

Hearing Examiner Hier: On premise?

The Witness: Yes.

Hearing Examiner Hier: That is 14 bottles of beer a day?

The Witness: This fellow is 6'4" and he is Irish. Sleep means nothing to him. When he gets 48 hours off he drinks constantly. When I open again he comes right back.

Hearing Examiner Hier: All right.

The Witness: I can give you his name and you can inquire.

Hearing Examiner Hier: No, I don't need that. This is not necessary.

Richard E. Curren, for Respondent—Direct

By Mr. Barton:

Q. You are familiar with the fact that G.B. put out a beer advertised as "Krausend", are you not?

A. Yes, they mailed circulars to us.

Q. What is the fact as to whether or not this customer complaint, customer reaction, came about at about the same time of that advertising campaign?

A. Truthfully, I don't pay any attention to that advertising. (458) You have all different brands come up with something new. You hear that. I just go by the demand. All I know is at the time the latter, ever since I started Griesedieck was my top and since 1951 it has been declining every year. In the early part of '50 when I first opened I used to sell 150 cases a month.

Q. Of Griesedieck?

A. Of Griesedieck, different packs. Now it has declined to about 40, 35 a month, in that period of time.

Q. What, if anything, is Griesedieck Brothers doing in Springfield to keep sales up?

A. Well, right now he is doing something—couldn't get him to do before—he is sponsoring bowling teams. There is a lot of them, 10, 12, 14 bowling teams. That is quite a lot for a city our size. And that is starting to pick up Griesedieck sales because, naturally, if a fellow walks in with a Griesedieck shirt he will drink it whether regular customer or not.

Q. Do you have any experience with Griesedieck beer being wild or foamy in that period?

A. I did for a short time but I attributed it to the refrigeration. I thought maybe that I had it on ice too long. Cold beer will do that. I never paid any attention until it was over and I talked to fellow tavern owners and

Richard E. Curren, for Respondent—Direct

they tell me they had the same trouble. I told the driver (459) but that was as far as it went.

Q. Was there any part of this Griesedieck loss in your tavern due to a change in price of any other beer that was being sold in competition with it?

Mr. Mayer: May I have that question read?

Hearing Examiner Hier: Read it back.

(Question read by reporter.)

Hearing Examiner Hier: You may answer.

The Witness: You mean by any other beer's prices dropping?

By Mr. Barton:

Q. Yes, that is right.

A. Would it have any effect on Griesedieck?

Q. Did it—in fact, was there a change in any other beer's prices?

A. My clientele does not matter. It does not matter to them.

Q. Well, in fact has there been any change in your prices at which you buy the brands you buy since January 1, 1954?

A. No, sir.

Q. And no change in your selling price?

A. No. I think Budweiser went up a penny, locally, then dropped, on the bottle, so it balanced out—dropped on the bottle.

Q. Who talked to you first about testifying here?

(460) A. Ernest Schaeffer, local Budweiser distributor in Springfield.

Q. You were called on by Mr. Ingamells and Mr. Hallquist?

Richard E. Curren, for Respondent—Cross

A. Did I?

Q. Your expenses are being paid to come here by Anheuser-Busch?

A. I hope so.

Q. Do you have any relatives employed by Anheuser-Busch?

A. No, sir, I haven't.

Q. Are you indebted in any way to Anheuser-Busch?

A. No, sir.

Mr. Barton: Your witness.

Cross examination by Mr. Mayer:

Q. What did you talk about when you talked to Mr. Hallquist and Mr. Ingamells?

A. Well, they came up, I was over at—I live at the Elks Club and Mr. Schaeffer called me and wanted to know whether I wanted to talk. Mr. Ingamells explained to me if I would furnish the information on the different products of beers, they would give me different reports on beer, how much I sold, from my books—would I be willing if Budweiser paid the expense back and forth, would I be willing to verify that those books were proper.

Q. Did you discuss the conclusions to be drawn from those (461) figures?

A. The day I got here I still don't know the reason why. I don't know the exact reason yet what this is all about.

Q. Do you have television in your tavern?

A. No, sir. I had it, I had it for a few weeks and got out.

Q. Do you have radio in your tavern?

A. Yes, sir.

Q. Do they listen to ball games on it?

A. I pull the juke box and listen to the game.

Richard F. Curren, for Respondent—Cross

Q. Do they ever listen to the fights in your tavern?

A. Not too much. They go down and watch television.

Q. Do they listen to the heavy weight championship fights?

A. Yes, the major fights.

Q. Do they watch the ball game on television?

A. Not too much. Lot of them go down. When I am open, I don't open until 3:00 or 3:30, whenever I get there.

Q. But the influence of the television—the ball game is already on when you open, isn't it?

A. Ball game is about over when I open.

Q. But the advertising on the ball game is very influential?

A. Yes, sir, with the Cardinals, the product.

Q. Now, I think you testified that the switch was from Griesedieck to Stag and Falstaff—why is that?

A. Falstaff I attributed to Dizzy Dean and I go back again (462) to baseball. When Dizzy Dean took over that, they come in and watched "Ole Diz"—on account of the ball club, that game of the week.

Q. Watched him on television?

A. On television, yes, sir.

Q. Do you have a television in your tavern?

A. No, sir, I watch it down to the Elks, when the game is over I open up. I watch it myself.

Q. The customers come from the Elks down with you and open up the tavern with you?

A. My tavern is not legit.

Q. What sport program does Stag put on television in your area?

A. I think it is wrestling on television. I am not too much—I don't know too much about that.

Richard E. Curren, for Respondent—Cross

Q. You testified that some of your customers switched from Griesedieck to Stag.

A. The two fellows that I am referring to both switched to Stag.

Q. Did the television or the wrestling contribute to that?

A. No, sir, it had nothing to do. I mean they went around and tried them all. They drank Bud and they drank Schlitz and then went back to Stag and then drank Stag. I mean, they tried each of them.

Q. Has the Griesedieck sales in your establishment been (463) on the decline since 1951?

A. Well, sir, I will say it has been going—it never got really on a definite decline until the last year. I mean, it has just fallen off.

Q. How many outlets similar to your tavern type, on and off premises outlets are there in Springfield?

A. There is 189 in the City and 96 in the County, which is just a mile or two away within that area.

Q. In all about the same general area?

A. About 255 taverns in that area.

Q. Would you say that generally all of the taverns handle Budweiser, Pabst, etc.?

A. Seven beers I named, I would say, are in every tavern in Springfield.

Q. About how many are there, 260?

A. About 255, yes.

Q. How long have you handled Budweiser?

A. Since the day I opened, September 20, 1950.

Q. Do you handle Budweiser draft beer?

A. I had draft for about a year. I took it out. I have the local draft beer.

Q. How do you buy your Budweiser?

Richard E. Curren, for Respondent—Cross

A. They come by every week.

Q. Through the local wholesaler?

A. The wholesaler, yes.

(464) Q. Is he located in Springfield?

A. Yes, sir.

Q. Has that been the same wholesaler since you came into business?

A. Yes.

Mr. Mayer: May we have a moment to examine some of the figures on the tabulation?

Hearing Examiner Hier: All right.

By Mr. Mayer:

Q. Is Budweiser the leading seller in your tavern?

A. I think at the present time it is, sir.

Q. How long has that been?

A. I'd say in the last—about the last year or year and a half. It has been picking up steadily.

Q. During this time when it became your leading seller, did you continue to sell it at a premium price with relation to Stag and Falstaff?

A. Yes, sir, 30 cents a bottle, I sell that.—

Mr. Mayer: That is all we have, Mr. Examiner.

Hearing Examiner Hier: I take it from what you say, Mr. Curren, that brand loyalty is a pretty unsteady thing when it comes to broadcast and television shows?

The Witness: Well, sir, I think that people try to show their appreciation by purchasing the product by the broadcasting of that company. I know when Hyde Park had (465) the ball game broadcasted over radio that Hyde Park was the most popular beer in Springfield. Hyde Park, they lost the broadcast to Griesedieck—they went

Paul Morgan, for Respondent—Direct

down and Griesedieck took over. It was the top beer in Springfield for years.

Now that Budweiser has taken over it is moving up in a steady increase not only in my place but through the different individuals that own taverns that I have talked to.

Hearing Examiner Hier: That means that athletic or sporting broadcasts are more important than price, does it not?

The Witness: In my tavern alone, sir, I don't think the price has any effect. I get them specials on beers and whiskey—I don't even buy them because my customers won't buy them. The price has—is no object to them there.

Hearing Examiner Hier: Very well. Anything more? You are excused.

(Witness excused.)

We will come back at 1:30 o'clock.

(Whereupon, at 12:00 o'clock noon, a recess was taken until 1:30 p.m., this day.)

(466) AFTERNOON SESSION

1:30 o'clock p.m.

Hearing Examiner Hier: Call your witness.

Mr. Baker: Mr. Morgan, please.

PAUL MORGAN was thereupon called as a witness on behalf of the Respondent and, having been first duly sworn, testified as follows:

Direct Examination:

Hearing Examiner Hier: What is your name, sir?

The Witness: Paul Morgan.

Paul Morgan, for Respondent—Direct

By Mr. Baker:

Q. Mr. Morgan, what is your home address, please?

A. 238 South 19th, Decatur, Illinois.

Q. What type of business are you in?

A. Tavern.

Q. Do you sell for on-premises consumption or off-premises?

A. Primarily on-premises.

Q. What is the address of your business?

A. 619 North Water, Decatur.

Q. How long have you been in that place of business?

A. Six and one-half years.

Q. Do you wait on the trade yourself?

A. Yes, sir.

Q. What beers do you handle?

A. Schlitz, Budweiser, Pabst, Miller's High Life, Heileman's (467) Old Style, Hamm's, Stag, Falstaff and Griesedieck.

Q. Have you prepared a tabulation showing your Griesedieck purchases for 1953, 1954 and 1955 as against your total purchases of beer?

A. Yes, sir.

Q. You also have a tabulation which I gave to you yesterday summarizing this?

A. Yes, sir.

Q. Have you checked that against your figures and satisfied yourself that it is correct?

A. Yes.

(The document referred to was marked as Respondent's Exhibit S3 for identification.)

Paul Morgan, for Respondent—Direct

Hearing Examiner Hier: Exhibit 83 is the witness' beer purchases for 1953 through 1955 by brands; is that right?

The Witness: Yes.

(The document referred to was marked as Respondent's Exhibit 84 for identification.)

Hearing Examiner Hier: Exhibit 84 is the summarization of the same.

Mr. Baker: I offer both of these documents, Exhibit 83 and Exhibit 84.

Mr. Mayer: No objection.

Hearing Examiner Hier: Admitted.

(The documents referred to, heretofore marked for (468) identification Respondent's Exhibits 83 and 84 were received in evidence.)

By Mr. Baker:

Q. Mr. Morgan, without going into detail will you follow me on the figures and see if I summarize correctly your situation.

A. Yes, sir.

Mr. Mayer: Objection. I think it would be more proper to ask the witness to summarize the figures rather than to lead the witness with respect to the summary offered by Respondent's counsel here.

Mr. Baker: Very well.

Hearing Examiner Hier: It does not matter; they are on the paper there. Go ahead.

Paul Morgan, for Respondent—Direct

By Mr. Baker:

Q. Mr. Morgan, do your figures show that you had an increase in total beer purchases in 1954 over 1953 of around 40 per cent?

A. Yes, sir; 40.6.

Q. In that same period of time what were your sales with respect to Griesedieck?

A. Griesedieck purchases declined 7.2 per cent.

Q. During what period of 1954 was your most pronounced decline in Griesedieck?

A. Our most pronounced decline was starting September.

Q. What was your decline percentage-wise for the last six months of 1954?

(469) A. The last six months was 34.2 per cent.

Q. To what do you attribute this decline?

A. Several reasons before mentioned. When they used the word "Krausend" in their advertising, which no one, the drinking public knew nothing about this word, but it rhymed with "poisoned", so they would come in and they would call for, "Give me some of that poisoned beer."

Q. Did that occur frequently in your tavern?

A. Yes, it did, until I had to laugh over it, and they stopped it.

Another big item, we had at home there I attributed to the decline of Griesedieck sales is the fact they changed salesman. They had a very popular salesman, and they replaced him with two other fellows that we were not acquainted with, who had not been in—

Q. When did they change salesmen, do you remember?

Paul Morgan, for Respondent—Direct

A. It is more than a year ago. I don't know, I couldn't tell exactly.

Hearing Examiner Hier: Where would the change of salesmen have any effect on the consumer demand, consumer preference?

The Witness: This man, Mr. Crouch, the salesman, was very popular, and he knew—any time he would go in a tavern, he would call five or six people by name, and they drank his beer because they liked him.

(470) Hearing Examiner Hier: They liked him rather than the beer?

The Witness: Well, that is always historic. If you sell yourself you can sell anything.

Hearing Examiner Hier: I suppose that could happen in a town the size of Decatur; I don't think it could happen here, but go ahead.

By Mr. Baker:

Q. What price, Mr. Morgan, do you sell Falstaff, Griesedieck, and Budweiser?

A. I sell Griesedieck and Falstaff at 25 cents, and Budweiser 30 cents.

Q. Do you handle Hamms?

A. Yes, sir.

Q. What do you sell that for over the bar?

A. Thirty cents.

Q. How about, do you sell 6-packs to take out?

A. That is a small item with me, this carry-out business. I do sell some.

Q. At what prices?

A. \$1.15 for popular beer, \$1.40 for premium.

Q. How about Hamms?

Paul Morgan, for Respondent—Direct

A. \$1.40.

Q. The prices you just gave to me, are those the prices in effect throughout 1954?

(471) A. We had a 12-cent raise in premium beer. It has been—I don't know, quite some time back—I don't know.

Q. Before 1954?

A. I believe it was.

Q. Aside from the play on words that you mentioned with respect to Krausend, did you have any complaints quality-wise?

A. Yes. I had one 50-case order of beer that seemed wild, that is, you open it, it run over. Personally, I didn't have any complaints about the quality of the beer, the taste of it. The fact it was wild, people would say, "What's the matter, you had this too long?"

I thought possibly we had not rotated our beer, and we had some bad beer, that it set too long.

Q. All right, continue.

A. But at a meeting one day of the tavern owners I asked some friends of mine, close friends, if they had happened to have any trouble with Griesedieck being wild, and several of them said, "Yes," they had.

Before that I had asked my customers, you know, "Sorry," and I would reach and get them another one, and asked them if they had had that happen before any place they drank, and they said, "Yes," they had had it happen different places.

So in conversation with the rest of the tavern owners I find out most of them had that trouble. I assumed then it was possibly a bad batch of beer.

Paul Morgan, for Respondent—Direct

(472) Q. Since that one occasion you have not had any trouble or complaints?

A. Only that one time was all I have had.

Q. Who first talked to you about the possibility of testifying in this case?

A. Tom Crawford.

Q. Is he the Budweiser distributor?

A. His father is, yes, sir.

Q. And you talked to Mr. Ingamells and Mr. Hallquist, did you?

A. Yes, sir.

Q. And Anheuser-Busch is paying your expenses to Washington?

A. Yes, sir.

Q. Are you indebted financially or any other way to Anheuser-Busch?

A. No, sir.

Q. You are testifying here under subpoena?

A. Yes, sir.

Mr. Baker: You may cross examine.

Hearing Examiner Hier: Before you do that, tell me, Mr. Morgan, let us put it this way, how many requests do you have to have from customers before you will stock another brand of beer? I mean, beer is bulky, takes up a lot of cold storage space, and so on, and I am just wondering what the resistance level is there.

(473) The Witness: Quite often, sir, you will bring in a new brand of beer, and they will come around to us and tell us that they are going to run a bunch of advertising on it, and this and that. Sometimes there is free merchandise to get it started. I never accept a new product

Paul Morgan, for Respondent—Direct

until I have enough calls for it that I think it justifies handling it.

(474) Hearing Examiner Hier: That is what I am wondering, how many are enough calls for it.

The Witness: If I don't have ten or twelve calls a day for it, I don't—

Hearing Examiner Hier: You are open from morning until midnight?

The Witness: Nine o'clock until one in the morning; yes, sir.

Hearing Examiner Hier: One other thing: What happens when somebody comes in there and wants a brand of beer that you do not carry? Do they walk out or do they buy something else?

The Witness: The only time it ever happened, sir, is on a new product. "I am sorry I don't have it. Would you care for anything else?" And they usually take something else, and I tell them, if there is enough demand for it, that I will start carrying it.

Hearing Examiner Hier: You may cross examine.

Mr. Baker: Excuse me, before you cross examine, I want to put in a picture of this place, one exhibit.

(The photograph referred to was marked Respondent's Exhibit 85 for identification.)

Mr. Baker: Would you please tell me what that is, Mr. Morgan?

The Witness: That is the inside of my tavern.

(475) Mr. Baker: I offer it.

Mr. Mayer: No objection.

Hearing Examiner Hier: Admitted.

Paul Morgan, for Respondent—Cross

(The photograph referred to, heretofore marked for identification Respondent's Exhibit 85, was received in evidence.)

Cross Examination by Mr. Mayer:

Q. Mr. Morgan, approximately how many taverns in the classification of yours are there in Decatur, Illinois?

A. There are 97 licenses. We all have one license in our town; clubs, package stores, everything is the same license. I think there are five package stores and nine clubs; the rest of them are such type places as mine.

Q. How long have you handled Budweiser?

A. Since I went in business six and a half years ago.

Q. What beer do you have on draft?

A. I have Budweiser.

Q. How long have you had Budweiser draft beer?

A. When I bought the tavern six and a half years ago she had Budweiser and Blatz, and Blatz discontinued service in town, so I put exclusive Budweiser on.

Q. Now, in relation to the location of your tavern, is it a down town tavern as opposed to a local or residential area tavern or what type of tavern is it?

(476) A. I am just at the edge of the business district, in the residential, apartment district, and it is more or less a neighborhood tavern, but I do get foot traffic from up town.

Q. Then you would have what, little or considerable amount of transient trade?

A. Oh, possibly a third.

Q. Now, sir, when did the fact that Griesedieck was using the Krausend process first come to your attention?

Paul Morgan, for Respondent—Cross

A. Well, truthfully my customers told me about it before I knew about it, before I knew I was selling Krausend beer. I don't pay any attention to advertising, but one of my customers asked me, "What's this Krausend beer?" And I was—I didn't know what to tell him, I did not know what it was; and then I found out about it, I mean, through advertising and whatnot. I checked into it to see what it was. I didn't find out what it was, but I knew they were selling Krausend beer.

Q. When was that, sir?

A. To the best of my knowledge it was, to my remembrance it was, about a year ago, a little more than a year ago.

Q. In the late months of 1954?

A. To the best of my remembrance, yes.

Q. Did Griesedieck Brothers salesmen ever come to your tavern to acquaint you with what the Krausend process was?

A. No. I was never informed of what it was.

Q. Did he ever attempt to make use of any point-of-sale (477) advertising with regard to the Krausend process in your tavern?

A. Yes, he brought ads and whatnot, inside paper ads.

Q. When was that, sir?

A. Well, approximately this time, in the latter part of 1954. I would say August, September, along there. That date isn't definite, but as near as I remember.

Q. Might it have been earlier, in January or February of 1954?

A. Well, it possibly could be. I mean the records would show when they come out with it, but I don't remember.

Paul Morgan, for Respondent—Cross

Q. Do you remember definitely the first complaints you had about the date on which you received the first complaint with regard to the product?

A. The date as to it?

Q. Yes.

A. No, sir; I don't remember.

Q. Could you approximate this within the radius of one month?

A. It would be a guess if I told you the day.

Q. In answer to one of Mr. Baker's questions you referred to popular and premium price beers. Would you tell us in your tavern what are your popular priced beers and what are your premium priced beers?

A. I have three popular priced beers, Griesedieck, Stag and (478) Falstaff, and my premium beers Budweiser, Schlitz, Miller's Highlife, Old Style Lager, Hamm's, and Pabst.

Q. Now, in those three popular priced beers in your tavern, do they advertise by point-of-sale advertising or on their label that they are premium beers?

A. Falstaff advertises premium quality beer.

Q. But in your terminology you call it a popular priced beer?

A. When we refer to popular and premium beers, we refer to the cheaper or more expensive beer.

Mr. Mayer: In price. That is all we have, Mr. Examiner.

Mr. Baker: That is all.

(Witness excused.)

Mr. Baker: Mr. Diemler.

Paul F. Diemler, for Respondent—Direct

PAUL F. DIEMLER was thereupon called as a witness for the Respondent and, having been first duly sworn, testified as follows:

Direct Examination:

Hearing Examiner Hier: What is your name?

The Witness: Paul F. Diemler.

By Mr. Baker:

Q. Mr. Diemler, would you state for the record your home address, please?

A. 1910 Tennerbridge Road, Jefferson City, Missouri.

(479) Q. What type of business are you engaged in?

A. All we have, we consider it a general merchandise store; in other words, we sell, we put in anything that we think we can sell.

Q. What is the address of your store?

A. 504 Madison Street, Jefferson City, Missouri.

Q. What is your position with your organization?

A. Manager.

Q. How long have you been the manager?

A. Since 1951.

Q. What did you do prior to that?

A. Air Force, United States Air Force.

Hearing Examiner Hier: Mr. Reporter Respondent's Exhibit 86 is a photograph of the exterior of the witness' store.

(The photograph referred to was marked Respondent's Exhibit 86 for identification.)

Hearing Examiner Hier: Respondent's Exhibit 87 is a photograph of the interior of the witness' store.

Paul F. Diemler, for Respondent—Direct

(The photograph referred to was marked Respondent's Exhibit 87 for identification.)

Mr. Baker: I offer it.

Mr. Mayer: No objection.

Hearing Examiner Hier: Admitted.

(The papers referred to heretofore marked Respondent's (480) Exhibits 86 and 87 for identification, were received in evidence.)

By Mr. Baker:

Q. Mr. Diemler, have you compiled figures showing in dollars the prices you paid the wholesalers for your total beer in your place of business for the years 1953, 1954, 1955?

A. Between November 1st of 1955; yes, sir.

Q. And what you pay to the Griesedieck wholesaler for the same period of time for Griesedieck beer?

A. Yes, sir.

Q. And the same with respect to Falstaff?

A. Yes, sir.

Hearing Examiner Hier: This three-sheet tabulation of those prices as counsel stated them, Mr. Reporter, have been marked Exhibit 88-A, -B, and -C.

(The papers referred to were marked Respondent's Exhibits 88-A, -B, and -C, for identification.)

Mr. Baker: I offer 88-A, -B, and -C.

Mr. Mayer: We have no objection.

Hearing Examiner Hier: Admitted.

Paul F. Diemler, for Respondent: Direct

(The papers referred to, heretofore marked for identification Respondent's Exhibits 88 A, B, and C, were received in evidence.)

To Mr. Baker:

Q. Mr. Diemler—

(481) A. Yes, sir.

Q. (Continuing)—do you recall my giving you a recapitulation of the data shown on Respondent's 88 A, B, and C yesterday afternoon, and asking you to check that data against your original?

A. Yes, sir.

Q. And you are satisfied that that is correct?

A. Yes, sir; I am.

Mr. Baker: I ask that it be marked.

(The document referred to was marked Respondent's Exhibit 89 for identification.)

Mr. Baker: I offer 89.

Mr. Mayer: No objection.

Hearing Examiner Hier: No objection, admitted.

(The document referred to, heretofore marked for identification Respondent's Exhibit 89, was received in evidence.)

To Mr. Baker:

Q. Mr. Diemler, what do your figures show with respect to your trend of GB purchases 1954 and 1955?

A. They are down.

Q. In both years?

A. Yes, sir.

Paul F. Dümmler, for Respondent—Direct

Q. What do you attribute that decline to?

A. Oh, I think there are two, maybe three reasons for that.

(482) Q. Would you state them, please?

A. Yes, sir. Number one, in my honest opinion, I think the quality of the beer is slipping. I don't think they have the quality of the beer that they used to.

Hearing Examiner Hier: Is that your opinion?

The Witness: Yes, sir; it is my opinion.

Hearing Examiner Hier: You have drunk it?

The Witness: Yes, sir.

Hearing Examiner Hier: Go on, the second reason?

The Witness: Oh, I think when they put out their advertising, when they tried to do something, I don't know why they tried it, they were selling good beer there, it was selling good, then they tried to advertise something, they just hit on something bad when they put out that Krausend.

By Mr. Baker:

Q. Let me understand it, it was a poor selection of advertising?

A. That is right; yes.

Q. Why do you say that?

A. I think it hurt them.

Hearing Examiner Hier: You mean the name "Krausend"?

The Witness: Yes, sir; I do.

Hearing Examiner Hier: Or is it the way the "Krausend" beer was presented which led to the decline, in your opinion?

(483) The Witness: I think a lot is the word "Krausend", around our town at home, it has a lot to say about

Paul F. Dümmler, for Respondent Direct

it. I will tell you two reasons for that; I had another beer put out by the Muchlebach Brewing Company of Kansas City, and they called their premium beer Krausend beer, and it wasn't too good a beer; I don't know anybody—that had some reflection.

The other one, we had a little brewery at home that was bought out by some fellows in the Moerschel Brewery, and they used to make Capital beer, and they sold out that brewery and somebody came in and started making that beer, called Krausend Brau, and that will always be remembered at home.

By Mr. Baker:

Q. Do you remember when that was? Was that sometime prior to 1954?

A. Oh, yes; the Krausend Brau, when they put that out—

Q. Yes, sir.

A. (continue)—I think that was about in 1947, 1946 or 1947. They just—they didn't last too long at all.

Hearing Examiner Hier: Is that area in which you operate primarily of German extraction, or Irish?

The Witness: Yes, sir; very much, German and Dutch. High German and Low German.

By Mr. Baker:

Q. What do you sell sixpacks of various brands for?

(484) A. We have a varying price. We have a cold beer price, and a warm beer price.

Q. Give me the warm beer price. By the way, before you do that, do you sell only for off premises consumption?

A. Yes, sir.

Paul F. Diemler, for Respondent—Direct

Q. All right. Give me the prices on warm beer.

A. Cans? Canned beer?

Q. Canned, yes, six-pack.

A. Six-pack of Stag, Griesedieck, and Falstaff sells 6 for 78 cents; Sterling beer is 6 for 88; Budweiser, Schlitz, Hamm's, Miller's, Pabst Blue Ribbon, Carling's Ale, those sell 6 for \$1.03.

Q. Did you mention Hamm's in that group?

A. Yes, sir; I did.

Q. How about the cold beer?

A. We charge a nickel more on a six-pack for cold beer.

Q. The price of cold Falstaff, if I understand it, is the same as warm Budweiser.

A. Right; yes, sir.

Q. Have you found the four-cent differential between Budweiser, Schlitz and Miller's, on the one hand, and Stag, Falstaff, and Griesedieck, on the other hand, a significant differential with respect to the decision of your clientele as to which they are going to take?

A. No, sir; not too much. I think if a man likes Budweiser, (485) he is going to drink Budweiser, he is going to pay for it. I know I am that way; I know if I like one kind of beer, I know that is what I like.

Q. Who first talked with you about the possibility of testifying in this case?

A. Mr. Norbert Scheppers, our local Budweiser distributor.

Q. Did you subsequently talk to Mr. Ingamells and Mr. Halquist?

A. Yes, sir.

Paul F. Diebler, for Respondent—Direct

Q. And Anheuser-Busch is paying your expenses in Washington?

A. Yes, sir.

Q. You are testifying under subpoena?

A. Yes, sir; I am.

Q. Are you obligated financially or otherwise in any way to Anheuser-Busch?

A. No, sir.

Q. Are you related to any employees of Anheuser-Busch?

A. No, sir.

Mr. Baker: You may cross examine.

Excuse me, Mr. Mayer, may I ask one question?

Mr. Mayer: Yes.

By Mr. Baker:

Q. Was there any change in the prices at which you sold beer during the year 1954?

A. Retail prices?

(486) Q. Yes.

A. Yes, sir.

Q. What were the changes?

A. Oh, in 1954, I wasn't making much money down there, selling Griesedieck and Falstaff and Stag six for 94 cents, and these prices I am quoting you are all plus 2 cents sales tax, six for 94 cents, and on Budweiser, Schlitz and Miller's and Pabst Blue Ribbon and Carling's Ale, I had six for \$1.08—no, 98, I am sorry.

Q. Was there any change in your purchase prices subsequent to January 1, 1954?

A. Before January 1st?

Q. No, after January 1, 1954.

A. Yes, sir; only in Falstaff beer.

Paul F. Diemler, for Respondent—Cross

Q. What was that change?

A. They raised it, I think they raised it ten cents, or maybe twelve cents a case, and then they just held it that way for about a week or ten days, maybe two weeks, and came back down, and it is still now two cents a case higher than other beers of that category.

Mr. Baker: That is all.

Cross examination by Mr. Mayer:

Q. How many package stores, Mr. Diemler, similar to the one which you manage, are operated in Jefferson City?

1487) A. Not very many. I would—let's see, there are about 6 others that are in business.

Q. Now, in Jefferson City, do they also issue you an off and on-premises licenses—do they issue off and on-premises licenses to the taverns?

A. Well, yes, sir.

Q. In other words, the local taverns then can sell package goods just as well as you sell package goods?

A. Yes, they are competition right.

Q. Are there many taverns in Jefferson City, Missouri?

A. I think the last they heard, they thought there were 56 outlets, what they considered in Jefferson City, they thought there were about 56. Those are considered outlets. By that I mean package stores, and your bars:

Q. That would include every place you could buy package liquor in Jefferson City?

A. That is right.

Q. How long have you handled Budweiser?

A. It was there before I was there.

Q. You always purchased it through the same distributor?

Paul F. Diemler, for Respondent—Cross

A. No, sir; we had a change in distributors. I think it was in 1954 when Norbert Scheppers bought the distributing agency from Clyde Love, who is now down in the southern part of the State with a Budweiser distributorship.

Q. Were you acquainted with Mr. Love?

(488) A. Yes, sir.

Q. Did he personally call at your store?

A. Yes, sir; he did.

Q. Mr. Diemler, I want you to rank for me, if you would, for 1954, the various beers that you sold in order of their volume for 1954, their dollar volume, if you would, sir.

A. Well, I can't guarantee that it would really be accurate; I can give you a close guess to it.

Q. A close approximation would be all right, sir.

A. O.K. I think during 1954, I imagine Griesedieck was probably about the biggest seller. They probably listed Griesedieck, Stag, Budweiser, Falstaff—Falstaff started picking up around through there, around 1954, Falstaff took its jump.

As I say, about a year before that it didn't do too good.

Then I have some unadvertised brands of beer there. Muehlebach, Export, Sternbrau, Country Club, Miller's, Hamms—I don't handle that in bottled beer, I only have that in canned beer; House of Liquors, and I guess down at the bottom of the list would be the ales, just as Carling's Ale.

Q. Just giving me the top six or seven, now, would you give me the leading brands as far as sales were concerned now in 1955?

A. 1955, Griesedieck, Stag, Falstaff, Budweiser, Schlitz and probably Muehlebach.

Paul F. Diemler, for Respondent—Cross

(489) Hearing Examiner Hier: In that order?

The Witness: It wouldn't miss it far, that order.

Hearing Examiner Hier: What is your typical package off-premises sale?

The Witness: Six cans.

By Mr. Mayer:

Q. Mr. Diemler, when did you first hear of the Krausend process of manufacturing beer?

A. Where I first heard of it? Oh, I think I have heard of it a long time ago, before Griesedieck Brothers put it out.

Q. Would you tell me what beers, to your knowledge, are manufactured according to that process?

A. No, sir; I wouldn't know.

Q. When did you first hear of it in relation to Griesedieck Brothers?

A. I believe it was about in the spring of 1954 when they came out with it. I cooperated with the brewery, I let them put up a display in the store.

Q. Did they take your picture of a display of theirs in your store?

A. They took a picture of the display. I didn't know it. I wasn't there.

Q. I was merely trying to ascertain the time, sir, whether it was in February, March, April, May.

A. Well, it seems to me it was about in March or April, (490) because I know we were having some nice days, and the evenings were getting too cold, and I know Griesedieck came over—the Griesedieck people wanted to know how they were getting along. I had to give them some

Paul F. Diemler, for Respondent—Cross

excuse. I told them it was just too cool in the nighttime, and people weren't drinking the beer that should be drinking it.

(491) Q. Now, did Griesedieck Brothers abandon the Krausend process or their advertising with relation to the Krausend process?

A. Yes, sir; I believe they did. I haven't seen it around our store, I haven't.

Q. Have you asked the Griesedieck salesman about it?

A. No, sir.

Q. Griesedieck is your leading seller, is it not?

A. I don't know if it still is or not. I rather believe Falstaff is passing it up.

Q. It was in 1954?

A. I believe it was.

Q. It was in 1953?

A. Yes, sir.

Q. Weren't you alarmed about the drop in sales of Griesedieck around 1955?

A. Well, I knew it wasn't any fault of ours; our business is still doing good.

Q. Oh, sir; but didn't you question the salesman at length as to what was wrong, why Griesedieck was not moving the way it should move?

A. No, I didn't talk to the salesman distributor about it too much, no. He told me he wanted to know what was going on all the time, and how come we weren't selling it like we were.

Q. Did you have any opinions of your own that you expressed to the salesman as to why it was not being sold at that time in (492) 1954, late 1954 or early 1955, whenever it dropped off?

Ralph Filisky, for Respondent—Direct

A. I don't think I discussed it with the salesman too much.

Mr. Mayer: That is all we have, Mr. Examiner.

Mr. Baker: You may step down.

Hearing Examiner Hier: Excused.

(Witness excused.)

Mr. Baker: Mr. Filisky.

RALPH FILISKY was thereupon called as a witness on behalf of the Respondent and, having been first duly sworn, testified as follows:

Direct Examination:

Hearing Examiner Hier: Will you state your name?

The Witness: Filisky.

Hearing Examiner Hier: How do you spell your name, sir?

The Witness: Ralph F-i-l-i-s-k-y.

By Mr. Baker:

Q. Will you state your home address, Mr. Filisky?

A. 680 South Hayworth, Decatur, Illinois.

Q. What type of business are you in?

A. I am in a combination tavern and package store.

Q. You sell for off-premises consumption and on-premises consumption?

A. Yes, I do.

Q. How is your business divided between the two, roughly?

Ralph Filisky, for Respondent (Direct)

(461) A. Well, there were two buildings, two buildings there, and I tore the wall out between the two buildings and put a row of shelving in the odd building and hung a drape then to separate the two places.

Hearing Examiner Hier: That is not the answer to the question. He did not mean how was it physically divided. How is it divided in volume, what percentage of your business is package store and what percentage is—

The Witness: I would say about 70 per cent, approximately 70 per cent is package.

Hearing Examiner Hier: Is package.

By Mr. Baker:

Q. That is for off-premises consumption?

A. That is right.

Hearing Examiner Hier: Mr. Reporter, Exhibit 90 is a photograph of the interior of Mr. Filisky's bar; and Exhibit 91 is a photograph of the interior of his package store.

(The documents referred to were marked as Respondent's Exhibits 90 and 91 respectively for identification.)

Mr. Baker: I offer these.

Mr. Mayer: No objection.

Hearing Examiner Hier: No objection, they will be admitted into the record.

(The documents referred to, heretofore marked for identification Respondent's Exhibits 90 and 91 were (494) received in evidence.)

Ralph Filisko, for Respondent Direct

By Mr. Baker:

Q. How long have you been in business in Decatur?

A. Ten years the 10th day of December this year.

Q. You have been in the same establishment except for the enlargement of it for the whole ten years?

A. Well, it has been just as large as it is now. It has been changed around within those ten years.

Q. What brand of beer do you handle?

A. Falstaff, Stag, and Griesedieck in the popular brands; Schlitz, Budweiser, Hamm's, Miller's, Pabst Blue Ribbon, Old Style Lager, Ballantine's Ale and Carling's Ale.

Q. Have you compiled some figures as to your purchases of your leading sellers for the years 1953, 1954 and 1955?

A. Yes, I have.

Mr. Baker: May I see them, please?

Hearing Examiner Hier: That will be 92.

(The document referred to was marked as Respondent's Exhibit 92 for identification.)

The Witness: I forgot to mention Canadian Ace, and Meister Brau.

By Mr. Baker:

Q. Of these listed on Respondent's Exhibit 92 for identification, what percentage of your total beer business would you say these represent, these brands, that is, Schlitz, Budweiser, (495) Miller's, Old Style, Falstaff, Griesedieck, Stag, Canadian Ace, and Meister Brau?

A. Well now, that would be hard to say.

Q. Is it a predominant amount of your business?

Ralph Falisky, for Respondent—Direct

A. You mean—

Q. Of your total beer business?

A. Of my total beer business, yes; yes, it is.

Q. You could not give an estimate as to how much?

A. I don't know. Probably 90, 95 per cent.

Mr. Baker: I offer this exhibit.

Mr. Mayer: We have no objection.

Hearing Examiner Hier: Admitted.

(The document referred to, heretofore marked for identification Respondent's Exhibit 32 was received in evidence.)

By Mr. Baker:

Q. Mr. Falisky, during the year 1954 did you at any time have any difficulty with Griesedieck Beer?

A. Yes, I did. It was the first two weeks in August, my wife and I and the children went down to Texas for a couple of weeks, and when I got back, my bartender had made a list along the side of the cash register in a pamphlet, and he had poured out a little over 13 cases of Griesedieck bottle beer. He had opened it up for the customer, the customer said there was something wrong with it, they could not drink it, and he had (496) dumped it out.

So I got hold of the salesman or it, and he told me at that time they had changed their caps or something, and they were buying caps from a different outfit, and he couldn't understand though that I had that many bad bottles of beer.

So I kind of let it go for a while and then, of course, as I was back around the place again, there were more

Dolph Fildesky, for Respondent Direct

people who complained about it, and that is when they started, customers started, bringing up the idea about the Krausend Beer and they said, "The damned stuff isn't Krausend, it is poisoned."

Q. When you came back from Texas did you do anything to check up on your bartender to try to ascertain whether he had actually poured this beer out?

A. Well, I talked to an Irishman who lives down the street from me, oh, I would say, he would drink almost a case of Griesedieck bottled beer a day. I asked him about it, and he said they had opened six bottles straight for him and dumped each one of them out.

Q. Was that in your place of business?

A. In my place of business; yes, sir.

Q. Is the Irishman that you referred to still drinking Griesedieck?

A. No, he drinks Falstaff now.

Q. Does he drink it in your place?

A. Yes.

(497) Q. He is one of your regular customers?

A. Yes, he is.

Q. You knew for a fact he had been drinking Griesedieck prior to the time you went to Texas?

A. Ever since I had been in the place, outside of once in a while he would take a short draft beer.

Q. What are your prices over the bar for Budweiser and Falstaff, Griesedieck, et cetera?

A. Well, Budweiser and Pabst, Schlitz and Miller's, 30 cents; Falstaff, Stag and Griesedieck are 25.

Q. Do you have any others—

A. Then I have Canadian Ace at 20 cents, but I won't sell a whole case a week.

Q. How about 6-packs?

Ralph Filisky, for Respondent—Direct

A. Six-packs, Budweiser, Schlitz and your premium beers are \$1.35 for six, and the popular beers, Falstaff, Stag and Griesedieck are \$1.10 for six.

Q. Do you handle Hamm's?

A. Yes, I do.

Q. What do you sell that for over the bar?

A. Thirty cents.

Q. How about the 6-pack?

A. Same price as Bud and Schlitz, \$1.35.

Q. Do you handle Blatz?

A. No, I dñn't. I did handle Blatz there at one time.

(498) Q. How long ago was it when you were handling Blatz?

A. I haven't had Blatz in my place for better than a year, I guess.

Q. When you did have it in, what were you selling it for?

A. \$1.35 for a 6-pack.

Q. Over the bar?

A. Thirty cents a bottle.

Q. Is Blatz being handled in Decatur now by other retailers?

A. As far as I know there is one retail outlet that handles Blatz.

Q. Is that a bar?

A. There may be someone else I don't know of, but I do know this one place.

Q. Is that an on or off premises?

A. Off premises.

Q. What do they sell it for, if you know?

Mr. Mayer: Objection. I fail to see the relevancy of this examination about the sale of Blatz by someone else, not even by this particular witness.

Ralph Filisky, for Respondent—Direct

Hearing Examiner Hier: He is trying to establish premium.

Mr. Baker: Your Honor—

Hearing Examiner Hier: Are you trying to establish premium or lack of premium price?

Mr. Baker: Yes.

(499) Hearing Examiner Hier: Overruled, if you know.

The Witness: Yes, I do.

Hearing Examiner Hier: You know that from being around the town for what they sell it? If you do, you may answer.

The Witness: A dollar for a 6-pack.

By Mr. Baker:

Q. Today?

A. Yes.

Q. Who first contacted you with respect to testifying in this proceeding?

A. Ben Davis.

Q. Who is he?

A. He is the field man for Budweiser.

Q. And subsequently did you talk to Mr. Hallquist and Mr. Ingamells?

A. Yes, I did.

Q. You are testifying under subpoena?

A. Yes, sir.

Q. And your transportation is being paid to Washington?

A. Yes.

Q. Are you related to any employees at Anheuser-Busch?

A. No, I am not.

Ralph Filisky, for Respondent—Cross

Q. Are you indebted to Anheuser-Busch financially or otherwise?

(500) Q. How did you classify Falstaff as to price, price-wise, over the bar?

A. Over the bar, 25 cents a bottle.

Q. And the take-out, 6-pack?

A. Six-pack, \$1.10.

Q. Have the prices, the retail prices, in your establishment changed since late 1953?

A. I believe that, if I am right, it was in 1954 that we had a 12-cent increase in Budweiser, Schlitz and Pabst and Miller's, 12 cents on a case.

Q. Aside from that there has been no change?

A. No, there hasn't.

Q. That is the purchase price you are talking about?

A. That is my purchase price.

Mr. Baker: All right; that is all.

Cross examination by Mr. Mayer:

Q. Mr. Filisky, in your ten years' experience did you ever recall your purchase price of Budweiser, Falstaff, Griesedieck and Stag being the same?

A. Falstaff, Stag and Griesedieck being the same?

Q. And Budweiser.

A. No, sir; I never have.

Q. Do you ever recall your over-the-counter price being the same for Falstaff, Griesedieck, Stag and Budweiser?

(501) A. No, sir; I never have.

Q. In those ten years, has it always been true that Budweiser has been the higher priced beer to you of the four beers?

A. Yes, sir.

Ralph Filisky, for Respondent—Cross

Q. Is it also the fact and has it also been true that it has also been sold by you at a higher price, sold over-the-bar?

A. Yes, sir.

Q. And also in the 6-pack carton as you have sold it for off-sale?

A. Yes, sir.

Q. Now, sir, how long have you handled Budweiser?

A. Ever since I have been there.

Q. And in the city of Decatur how many outlets similar to yours are there, sir?

A. There are, let's see, there are four, I believe, maybe five. Another fellow is supposed to have one up—he may have it opened by now.

Q. Now, in the entire Decatur area, how many places are there that someone could buy either off-premises or on-premises liquor?

A. Well, practically every place in Decatur.

Q. Would you say that would be 50 outlets, a hundred outlets?

A. Well, almost everywhere; I mean, primarily their business is not package liquor, but they do handle a few 6-packs of practically every brand, and if you want them they have got them for you, but their business is not carry-out business.

(502) Q. There are only approximately four or five similar to yours, a combination outlet?

A. That is right.

Q. You handled draft beer, sir?

A. Yes, sir.

Q. What kind, sir?

A. Michelob,

Ralph Filisky, for Respondent—Cross

Q. How long have you handled that, sir?

A. Well, I got Michelob after the war when they started making it again.

Q. Then you handled it ever since the last war?

A. Before the war I was in the beer business in a hotel. I had Michelob on tap over there, and as soon as I got out of the Navy and I bought the place where I am at now, I tried to get Michelob, but I understood from the distributor it was not available; that as soon as it was, as soon as it would be, I would get it.

Q. Now, sir, from 1954, would you rank for me in the order of volumewise, in order volume-wise, the beer that you sold?

Hearing Examiner Hier: Including or excluding Michelob?

Mr. Mayer: In the package beer.

The Witnesses: By the package?

By Mr. Mayer:

Q. Yes, sir? both on or off-premises.

(503) A. Well, sir, I don't have that separated. I have my total beers here of the different brands.

Now I had an increase in Griesedieck Beer in 1954. That was over the period of the whole year, but I saw more—I sold an awful lot of Griesedieck by the can. I had a tremendous increase in my over-all business.

Q. As I understand it then, the complaint about the Griesedieck Beer did not go to the canned beer, only to the bottled beer?

A. Not to the canned beer. In fact, I don't remember anything ever a couple of complaints about cans. It was 20 bottles.

Ralph Filisky, for Respondent—Cross

Q. Did the Griesedieck salesmen acquaint you with their advertising campaign with regard to the Krausend process?

A. Well, yes, but I don't remember much about what he told me about it.

Q. Do you remember letting him know it affected your bottle sales?

A. Yes, sir; he did. I was complaining to him about it.

Q. What did he say, sir, when you complained about it?

A. Well, he said he didn't think it was the beer, he thought it was the beer caps. They had changed and started buying beer caps from another outfit.

Q. Did your Griesedieck sales retain or return any in your bottled goods after the caps were changed?

(504) A. No, sir. I used to—I said—we call them bins in your bottle boxes, and for quite some time I had to keep two bins of Griesedieck behind, and then I just sold four or five cases of Griesedieck, the night man did, in the walk-in cooler, and on Friday, Saturday, Monday nights, which were our three busy nights, well, we always had run those two bins out, and then one of the night boys would have to get some of the beer from the walk-in cooler to finish out the evening.

Then after, I will say, within about, oh, five, six weeks, the beer started getting old in the box, and so Falstaff—we were going to start running out of Falstaff—most of the customers switched over to Falstaff, so I gave Falstaff two bins, and "Griese" one, and that is more than plenty for my bottled beer.

Q. In 1953 what were the percentage of your sales bottled as opposed to cans in Griesedieck?

Ralph Filisky, for Respondent—Cross

A. Well, I would say we sold more bottles than we sold cans in 1953.

Q. In 1954 what was the percentage?

A. It was probably about 50-50.

Q. And in 1955 what was the percentage?

A. It was about 70-30, 70 per cent can and 30 per cent bottle.

Q. Now, is there a difference between the Griesedieck Brothers Beer in the bottle and the Griesedieck Brothers Beer in the can?

A. That I couldn't say, sir. I never drink Griesedieck myself.

(505) Q. Did you ask the salesman about it, sir?

A. There was supposed to be a difference in the two beers. I understand.

Q. A difference in the Griesedieck Beer in the bottle and Griesedieck Beer in the can?

A. Yes; I understand that there is.

Q. Where do you understand that, sir?

A. Well, I was down to the brewery, it has been quite a while ago, and they were talking about pasteurizing the bottle, and not pasteurizing the cans.

Q. What brewery was that, sir?

A. That was up to Blatz.

Q. What year was that?

A. Oh, I don't know. It was probably about four and a half years ago. At that time Blatz had quite an advertising campaign around home.

Q. Now, is that the basis for your statement that there is a difference between Griesedieck—

A. Yes, sir.

Q. Did your customers ever tell you that?

Ralph Filisky, for Respondent—Cross

A. That there was a difference in cans and bottles? Well, I think there is a difference in flavor in all cans and bottles.

Q. Now, I am talking about any difference of the Griesedieck Beer in bottles prior to and subsequent to this particular

(506) A. Oh, no, I couldn't say that.

Q. They did not?

A. They may have, I don't know. I don't recall of any incident.

Q. Do you know the process by which Budweiser is brewed?

A. No, sir.

Q. Is there the same difference between Budweiser in the bottle and Budweiser in the can as there is between Griesedieck in the bottle and Griesedieck in the can?

A. That I don't know, sir.

Q. Is there any difference?

A. There is a difference in taste because I have drunk both of them.

Mr. Mayer: That is all we have.

Mr. Baker: That is all we have.

Do you have a question?

Hearing Examiner Hier: Yes.

What do you dispense your Michelob over the bar at, how much?

The Witness: At 20 cents, sir.

Hearing Examiner Hier: For how many ounces?

The Witness: Approximately 12 ounces.

Hearing Examiner Hier: Is that the amount, the same amount in the can?

The Witness: Yes, sir.

Julio Florini, for Respondent—Direct

(507) Hearing Examiner Hier: Then give me your experience in selling Michelob as against Griesedieck canned Beer. Which does the better with you?

The Witness: Well, I probably sell more gallons of Michelob than I do Griesedieck.

Hearing Examiner Hier: Give me your same experience of the Michelob as against Falstaff.

The Witness: I probably sell more Michelob than I do Falstaff by the gallons.

(508) Hearing Examiner Hier: Let us compare Budweiser in the bottle, which sells for 30 cents and a glass of Michelob that sells for 20 cents. What has been your experience there?

The Witness: I sell more Michelob.

Hearing Examiner Hier: More Michelob.

Any questions, gentlemen?

You are excused.

The Witness: All right.

(Witness excused.)

Mr. Barton: I call Mr. Florini.

JULIO FLORINI was thereupon called as a witness by the Respondent and, having been first duly sworn by the Examiner, testified as follows:

Direct examination

Hearing Examiner Hier: Will you give us your name?

The Witness: Julio Florini.

Hearing Examiner Hier: All right, you may sit down.

*Julio Florini, for Respondent—Direct**By Mr. Barton:*

Q. For the record, Mr. Florini, what is your residence?

A. 314 West Scott, Sullivan, Illinois.

Q. How far from St. Louis is Sullivan, Illinois, located?

A. Approximately 125 miles.

Q. It is in the middle part of the state, is it not?

A. That is right.

(509) Q. What is your business, sir?

A. Tavern business. On the premises, and off the premises, both.

Q. How large a town is Sullivan?

A. 3400.

Q. Most of your, a lot of your customers are from the rural area, I take it?

A. That is right.

Q. Most of them are regular customers?

A. That is right.

Q. What percentage would you say are regular customers?

A. 90 per cent or better.

Q. What brands of beer do you sell? First of all, how long have you been in the tavern business?

A. Since 1946.

Q. What did you do before that?

A. In the service.

Q. What are your brands of beer that you sell in a package form?

A. Falstaff, Griesedieck, Stag, Budweiser, Pabst, Schlitz, Miller's, Hamm's; that is it.

Q. What was your leading brand of beer in 1953?

A. Griesedieck.

Q. What is your leading brand of beer now?

Julio Florini, for Respondent—Direct

A. Falstaff.

(510) Q. Have you produced a tabulation of your Griesedieck purchases in 1953, 1954 and 1955, as well as your Budweiser purchases in those same years?

A. That is right.

Q. And some cost information?

A. Yes.

Hearing Examiner Hier: That will be 93-A, -B.

(The document referred to was marked Respondent's Exhibit 93-A and 93-B for identification.)

Mr. Barton: I offer it in evidence, Your Honor.

Hearing Examiner Hier: You have no objection, I assume?

Mr. Mayer: No.

Hearing Examiner Hier: Admitted.

(The document referred to, heretofore marked Respondent's Exhibit 93-A and 93-B for identification, was received in evidence.)

By Mr. Barton:

Q. Referring to Exhibit 93-B, I note that Griesedieck Brothers beer, your Griesedieck Brothers purchases, declined 24 per cent in the last six months of 1954 over the prior six-month period, the same six-month period, in 1953.

A. That is right.

Q. What explanation if any—I take it that is the period (511) in which your Griesedieck Brothers break took place in your business, is it not?

A. That is right.

Julio Florini, for Respondent—Direct

Q. What explanation, if any, do you have for that dropping off in Griesedieck Brothers sales in your place of business?

A. Well, most of my customers said that it was—they thought the beer was green, in their opinion, and had a bitter taste; and then this Krausend seemed to confuse the customers. They didn't know what it was, and I didn't know, and I still don't know.

Q. Were these people, these customers, regular customers that had been drinking Griesedieck Brothers before?

A. That is right.

Q. What did they, generally speaking, switch to?

A. Falstaff, generally; a few of them to Stag.

Q. In the period—when was that switch that took place, starting in what month?

A. I think July of 1954.

Q. And are those customers still with you?

A. That is right.

Q. Have any appreciable number of them switched back to Griesedieck Brothers?

A. No, they haven't.

Q. Would you say that the switch of those customers was the principal explanation for your drop-off in Griesedieck Brothers sales?

(512) A. The switch of the customers—

Q. The customers you have in mind who have been longtime customers?

A. Those and several others.

Q. Pardon me.

A. Their switch is the reason for the drop-off, yes.

Q. Do you know the names of those customers?

Julio Florini, for Respondent—Direct

A. Yes, I know several names.

Q. Has there been any change in the prices at which you sold any of the beers you are handling since January 1, 1954?

A. No, there has not.

Q. At what price do you sell Budweiser, Miller's, Hamms, over the bar?

A. 30 cents.

Q. What price do you charge for Falstaff, Griesedieck Brothers, and Stag?

A. 25.

Q. Do you have any other brands at a different price?

A. No, I don't.

Q. On the take-out six-pack, I take it, that is the most popular take-home package, is it not?

A. That is right.

Q. Six-can package?

A. Six or twelve.

Q. I see; and what is your price for six-can Budweiser (513) and Hamms?

A. \$1.30.

Q. What is your price for Falstaff?

A. Just a minute; Budweiser, \$1.50; Falstaff, \$1.30.

Q. Budweiser—

A. Budweiser is \$1.50, and Falstaff, \$1.30.

Q. What do you sell Hamms at? The six-pack.

A. \$1.50.

Q. And the same for Miller's and Pabst?

A. That is right; all the premium beers.

Q. You personally wait on the trade in your place of business, do you not?

A. I do.

Julio Florini, for Respondent—Direct

Q. Did you taste the Griesedieck beer when customers complained about it?

A. No, sir.

Q. What beer do you drink?

A. I don't drink at all.

Q. Who first contacted you with respect to testifying here?

A. Frank Ronchetti, the Budweiser distributing man at—

Q. In your area?

A. Yes.

Q. And you talked to Mr. Hallquist and Mr. Ingamells, did you not?

A. I did.

(514) Q. Your expenses are being paid to come here by Anheuser-Busch, are they not?

A. That is right.

Q. Are you related to any employee of Anheuser-Busch?

A. No, sir.

Q. Are you financially indebted in any way to Anheuser-Busch?

A. No, sir.

Q. You are testifying under subpoena, are you not?

A. Yes, sir.

Q. Have you ever handled Blatz beer?

A. Two or three years ago, yes, but I don't handle it now.

Q. What price did it sell at when you handled it?

A. Same as Budweiser and Schlitz.

Hearing Examiner Hier: Mr. Florini, if I walked into your bar and tossed 30 cents on the counter and said, "Give me a bottle of beer," what would you do?

Julio Florini, for Respondent—Cross

The Witness: What would I do? I would say, "What kind, sir".

Hearing Examiner Hier: And I say, "I don't care." What would you hand me?

The Witness: I would give you Budweiser, or Schlitz.

Hearing Examiner Hier: You may cross examine.

(515) Cross examination by Mr. Mayer:

Q. Do you handle draft beer in your tavern, Mr. Florini?

A. Yes, sir.

Q. What beer is it?

A. Budweiser.

Q. Budweiser.

How long have you handled Budweiser on draft?

A. Since 1946.

Q. Have you also handled bottled Budweiser and package Budweiser for that length of time?

A. Yes, sir.

Q. I am sorry, I did not get it; what was the name of the Budweiser distributor in this area?

A. Frank Ronchetti.

Q. How many liquor outlets, similar to yours, sir, are there in Sullivan?

A. Four.

Q. Do they constitute the only four places in the town that you can buy liquor, either on or off the premises?

A. That is right.

Q. I think you said that as a result of some dissatisfaction with the product, several customers of yours switched from Griesedieck Brothers to Falstaff and Stag; is that correct?

A. Yes.

Julio Florini, for Respondent—Cross

(516) Q. Why was the switch, Mr. Florini, to Falstaff and to Stag rather than to Schlitz or Budweiser or Pabst, or any other beer that you happened to have?

A. I would say because of the nickel difference in the selling price.

Q. Do you have a price-conscious clientele at your store?

A. I have a working class, farmers and factory workers.

Q. And five cents, therefore, in the retail price, makes a difference in the selection of the beer by your customers?

A. That is right.

Q. Mr. Florini, directing your attention to Respondent's Exhibit 93-A, would you tell us what those figures in the column under the heading "1953" stand for?

A. That is the total sales for 1953 of each brand.

Hearing Examiner Hier: In dollars or cases?

The Witness: In cases, sir.

Hearing Examiner Hier: Cases.

By Mr. Mayer:

Q. Is that translated into 24 twelve-ounce cans, or is it pints or quarts, or seven-ounce bottles, or what type cases are they?

A. It would be cans and bottles, with just a very few quarts in the Griesedieck. The Budweiser I don't handle quarts.

Q. In other words, it is all 12-ounce?

A. That is right; all 12-ounce.

Q. What does the notation "N.A." stand for?

(517) A. That is on Miller's, Pabst and Schlitz, not available. I don't separate my beers according to brands. I separate them according to purchases and beer sales.

Julio Florini, for Respondent—Cross

Q. Does that mean then you had no sales of Schlitz Pabst or Miller's in 1953?

A. That means I didn't compile that information.

Q. I am sorry, but did you state your leading seller in 1955 was Falstaff?

A. Yes, sir.

Q. This exhibit would not show that, would it?

A. It would not show it.

Q. What was your leading seller in 1954?

A. It would possibly be Falstaff or Griesedieck; it is one of those two.

Q. What was your leading seller in 1953?

A. Griesedieck.

Q. Now, when was the first time that the existence of the Krausend process even came to your attention?

A. The first time I noticed it was seeing all the various ads, and hearing people talk about it.

Q. When was that, sir.

A. I would say the middle of 1954, or thereabouts; I couldn't pinpoint it.

(518) Q. How long did the Griesedieck Brothers use the Krausend process in the manufacture of their product?

A. I don't know, sir.

Q. Did you ask their salesman about it or talk to them about it?

A. Not about the Krausend process.

Q. I am sorry, maybe I am mistaken, but did you testify that the Krausend process or here was the largest factor in the decline?

A. No, I said that was one of the factors.

Q. I am sorry, sir.

Julio Florini, for Respondent—Cross

What were the other factors, and what was the major factor?

A. Well, I can't say what was the major, but the change of their beer and the loss of the broadcasts. Our town is very baseball-minded, and so are the customers, and that seemed to have quite a bit to do with it.

Q. And which had the most influence?

A. I think the loss of the broadcast; that is my own opinion.

Q. In your 11 years' experience, Mr. Florini, have you ever bought Budweiser at the same price at which you purchased Falstaff, Griesedieck or Stag?

A. No, sir.

Q. Have you ever resold Budweiser at the same price at which you resold Falstaff, Griesedieck or Stag?

(519) A. No, sir.

Q. Is it true that Budweiser has always been the higher priced beer, both in your purchasing price and in your reselling price?

A. Yes, sir.

Mr. Barton: Higher price of what?

Mr. Mayer: The witness evidently understood it.

Mr. Barton: I object to the form of the question. So far as—

Hearing Examiner Hier: Now, wait a minute—

Mr. Mayer: The question was, has Budweiser always cost you more to purchase than either Griesedieck, Stag or Falstaff?

The Witness: Yes, sir.

J. E. McClary, for Respondent—Direct

Re Mr. Mayer:

Q. And in your reselling have you always resold Budweiser at a higher price than you resell Griesedieck, Stag, or Falstaff?

A. Yes, sir.

Mr. Mayer: That is all we have.

Hearing Examiner Hier: You are excused, Mr. Florini; thank you.

(Witness excused.)

Mr. Barton: Your Honor, would it be a suitable time for taking a short recess?

Hearing Examiner Hier: Yes, it would. We will take (520) a five-minute break.

(Short recess.)

Mr. Baker: Dr. McClary.

J. E. McCLARY¹ was thereupon called as a witness for the Respondent and, having been first duly sworn, testified as follows:

Direct examination

Hearing Examiner Hier: Give us your name, please.

The Witness: J. E. McClary.

By Mr. Baker:

Q. What is your home address, Dr. McClary?

A. St. Louis, 5 Whitegate Lane, St. Louis.

Q. What position do you hold with the Anheuser-Busch Company?

J. E. McClary, for Respondent—Direct

A. Director of the Brewery Research Laboratory.

Q. What are the functions of the Brewery Research Laboratory?

A. To improve, where possible, methods of control; to supervise and watch that the methods are adequately carried out, and to do research on raw materials, developments of any nature which might improve our product.

Q. Dr. McClary, how long have you held this position?

A. Three years.

Q. And prior to that time what position did you hold with the company?

(521) A. I was Director of Research in the Central Laboratory.

Q. And in the past three years all of your activities have been confined to beer only?

A. It has.

Q. How many years were you in the position of Director of Research prior to your present position?

A. Five years.

Q. And prior to that?

A. Three years Assistant Director of Research, two years prior to that as Research Chemist.

Q. How far back does that take us?

A. January 1943.

Q. Doctor, would you outline your educational background qualifications, please?

A. I was granted a Bachelor of Science Degree at Southeastern State College, Durant, Oklahoma, 1932; Masters Degree, University of Missouri, 1935; Ph.D., Missouri University, 1941.

Q. What did you do immediately after graduation?

J. E. McClary, for Respondent—Direct

A. I remained at the University as an instructor before coming to Anheuser-Busch.

Q. How many people do you have on your staff currently working under you?

A. 15.

Q. What is the composition of your staff?

A. 5 are specialists in certain fields, malting, brewing (522) organic chemistry, biological chemistry; other are graduate chemists and technologists.

Q. Would you please state the titles of any articles or books that you have published or that you have written, and which have been published, and the place of publication?

A. To get that exact, I probably would have to refer to notes.

Hearing Examiner Hier: Do you concede his professional qualifications in the field in which he is engaged?

Mr. Mayer: Yes.

Hearing Examiner Hier: The answer is, yes.

By Mr. Baker:

Q. Are you the holder of any patents, Doctor?

A. Yes, one patent.

Q. Now, in the conduct of your laboratory you make periodic tests of Budweiser beer?

A. We do.

Q. Will you tell us, please, the purpose of these tests?

A. Here is a perishable product. It is, in fact, rather difficult to produce a beer which will maintain satisfactory quality over any extended period of time.

It is further impossible to examine by any means a fresh beer and determine whether or not that beer will retain its character or for how long.

J. E. McClary, for Respondent—Direct

We, therefore, make those tests as two tests for the (523) uniformity of the product, as it is, and as it ages, and also to determine under what conditions we can expect that product to remain good, and for how long under any given set of conditions.

Q. Tests the keeping qualities of the product?

A. Tests the keeping qualities, as well as the original quality; it does both.

Q. Sometimes referred to as the shelf life of the product?

A. Yes; that is, the keeping quality.

Q. You mention uniformity of quality. Why do you mention that?

A. Uniformity probably is one of the dominant marks of any food product or brand. Undoubtedly there are native preferences that people have for tastes, but I think there is also no question but tastes which may be objectionable to some people have a consumer acceptance that is acquired.

If a product then has and retains over a long period of time a specific character, it will hold a customer acceptance within its group. But if the quality varies originally or if it spreads as it ages, then it is difficult to pin any one acceptance point to that product. I think that is rather general in food industry.

Q. Do you make periodic tests of competitive beers?

A. We do.

Q. Why?

(524) A. There again I think quality in a product is a relative matter, and in order to compare the various aspects of our own product with the industry, we conduct

J. E. McClary, for Respondent—Direct

these other tests as a yardstick for judging our own position.

Q. A relative yardstick?

A. A relative yardstick, yes, quality.

Q. How are such competitive beers obtained for the purpose of making tests?

A. Competitive beers are obtained for us by our sales department in St. Louis from regular retail outlets and in the regular retail package.

Q. Do you run the same tests on Budweiser and competitive beers?

A. Exactly the same tests.

Q. Will you describe, please, the normal procedure in making tests?

A. We get our normal sample is one case, 24 12-ounce bottles in this particular category about which we are talking.

We then use four to six of those bottles to determine the state of the beer when we get it, the gas content and the air content.

One group, usually two bottles, will be placed at a cool temperature, 30 degrees Fahrenheit, for a week simulating normal outlet conditions in a cold box.

On those samples we run a turbidity or haze measure.

(525) Other groups of four to six bottles each will be placed at 100 degrees Fahrenheit or at 70 degrees Fahrenheit for punishment in order to determine the effect of temperature on the sample.

One group of samples we leave at a hundred degrees for two weeks, after which we put it at 30 degrees, chill it, make our tests on it.

J. E. McClary, for Respondent—Direct

Another group will remain at a hundred degrees for four weeks and the tests will be run on that.

Another group will be placed at 70 degrees, held for three months, then chilled and tested.

Another group is held for six months at 70 degrees, after which it is tested.

(526) Q. At times you get one case in—at the times you get one case in of beer to be tested, by the time all of the tests are run, of the 24 bottles in that one case, it would be approximately three months from the time you purchase it.

A. Six months.

Q. Six months, I beg your pardon.

A. Yes.

Q. Why are the tests conducted at these time intervals, Dr. McClary, say?

A. These time intervals have usually a specific purpose. We run two weeks at the 100 degrees as the quickest test we can get to give us some information about how well our beer is holding in uniformity of shelf life. And then when our beer is put out into the field, at different seasons of the year, we have different temperature punishment situations, shipping and in storage. 100 degrees is about maximum temperature and in some areas even normal for mid summer storage conditions. 70 degrees is fairly well representative of most of the seasons of the year for storage conditions of beer.

Then by running these tests we are able to pretty well predict what will happen to our beer under any storage conditions, provided we know the temperatures that are encountered.

J. E. McClary, for Respondent—Direct

Q. Now, Doctor, from a practical commercial standpoint, what are the most significant tests of those that you have mentioned?

A. The most significant tests that we run on the beer are air, and turbidity after punishment—turbidity after (527) punishment.

Hearing Examiner Hier: What does that term mean that you used?

The Witness: It is the cloudiness as opposed to a brilliant, that you can see through a cloudy, hazy appearance.

By Mr. Baker:

Q. The different storage time periods—you have several different time storage periods. Of those different storage time periods which do you consider the most commercially significant?

A. The four weeks at 100, because that approximate about the worst conditions that our beer is subjected to in temperature and time, and the three months at 70 because that will represent the normal maximum punishment that our beer gets for most of the year and in most areas.

Q. Would you outline briefly the problems of the brewery that makes these tests necessary?

A. The problem, first of all, of course, is to produce a uniform, stable product, and facing the delays that are always encountered at least always in our experience, we have to know what is going to happen to that beer. We also have to know what we can do about inventories and shipping.

So after we produce the most uniform beer that we know how to produce then we have to know what happens to it, and how (528) we can expect it to behave in the trade

J. E. McClary, for Respondent—Direct

Q. Well now, based on your tests, do you suggest the maximum inventories for wholesalers and branches, different times during the year?

A. We do.

Q. Relative to this, Dr. McClary, what are the maximum times that beer can be safely stocked by your wholesalers and branches, say, in the summer and winter?

A. In the middle of summer when the temperatures are apt to range up to 100 degrees or better, we recommend that they do not hold stock more than four weeks. Other periods of the year when the average temperature to which beer is subjected is 70 to 76 degrees, we recommend to them that their inventory can spread out to three months or even longer.

Q. I think you have mentioned the test that you run. Won't you tell us specifically what you measure in the various tests?

A. We measure the gas content, that is, the carbon dioxide, the CO_2 , which given the sparkle characteristic, that has to do with gushing for one thing and the acceptance for another.

Then the air content we measure, because air has a definite effect on beer. We measure the turbidity because the turbidity is in itself objectionable and because it is an indication of some other things that can happen to beer.

Q. Will you describe, please, how tests of air and turbidity (529) are run?

A. To measure for air, it is necessary to drive all of the gas out of a bottle. We do that by placing it in a machine set up in such a way that as the gas comes from the bottle it passes through a caustic soda solution, into a long burette or graduated glass tube. Any gas that is not

J. E. McClary, for Respondent—Direct

carbon dioxide will be collected in the top of that tube, where the tube is very narrow and it can be read volumetrically to a very narrow margin.

Q. Then measure what is left?

A. Yes; all of the gas that isn't absorbed by the caustic is air.

Q. Yes.

A. That is measured volumetrically in that graduated cylinder.

Q. Would you describe the turbidity test?

A. Turbidity, as I have said, is a milkiness that shows up in the beer which is due to the formation of solid particles suspended in the liquid.

The principle that we use is the reflection of light from those solid particles and a measure of the intensity of the light. We have a machine called a Nethuno-Photometer. That machine is set up in a way that we can put, place a clear glass test tube containing the beer in the path of a beam of light. The light strikes the beer and light then is reflected at right angles from those solid particles. That reflected light is measured by a Photocell, and we read the measure of (530) turbidity on a dial which we just simply give arbitrary units.

Q. That is an objective test?

A. That is an objective test. There is no guess work or judgment involved in it. We take a reading off a dial.

Q. Formerly and perhaps some places today there are subjective measurements for turbidity?

A. Yes, it is common practice still to hold it up to a window and try to judge how much cloudiness there is in the beer. We abandoned it because it was subject to too great individual variation among operators.

J. E. McClary, for Respondent - Direct

Q. Is there any other objective test that you know of for turbidity?

A. There are other objective tests for turbidity. There is light transmission but that is shown to be in error. That is, it is not a reliable test. And there are, in fact, no other objective tests used in the measure of beer quality.

Q. Would you give me the different scale readings of the Nefluoro meter with respect to the turbidity of beer?

A. A bright beer will give a reading just about the same as perfectly clear tap water, units eight to twelve.

A slight haze, one that would not be noticed in ordinary trade would run 12 to 20.

A distinct haze would possibly be noticed, if you looked at it carefully up to a bright light, would read 20 to 20.

30 to 40 would be observable in an ordinary light, and (531) above 50 has a distinctly milky appearance.

Q. Above what reading would you say the beer is undesirable?

A. Anything above 30 would probably be called undesirable. My reason for stating that is many people fancy themselves as beer experts if they think it is a little bit off taste and hold it up and see that it is a little bit cloudy, then they are convinced.

Q. Dr. McClary, you said that air is of great significance. Will you explain why, please; air in beer, I mean.

A. Air is known to have a very deleterious effect, harmful effect on beer. In any appreciable quantity on the order of just a few cubic centimeters, will after a few weeks at ~~tem~~ temperatures, room temperature and above, will cause a very distinct hazy effect and will become off taste.

J. E. McClary, for Respondent—Direct

This work was first brought out by Wallerstein Laboratories. They definitely proved back as far as 1939, that air caused a development of a hazy and off taste in beer.

Q. Have you confirmed their work?

A. We definitely have confirmed their work and have gone further in establishing definite limits that fit our own beer. It varies with different beers.

Q. Who is it—or what is the Wallerstein Laboratory—what type of an organization is that?

A. They are a service organization to the brewing industry. They operate a research laboratory and are a manufacturer (532) and selling group for brewing specialties.

Hearing Examiner Hier: Up to this time you have been talking about packaged beer only and also what is known as light beer as distinguished from dark beer.

The Witness: That is correct.

By Mr. Baker:

Q. Has Wallerstein conducted research with respect to air and turbidity?

A. They have. They were pioneers in development of those facts that are known in the trade, that is called oxidation and is generally accepted as a fact.

Mr. Baker: Your Honor, at this time I would like to have marked as Respondent's Exhibit No. 94, an article entitled "Oxidation in Beers, Oxidation Stability of the Finished Product" by Philip Gray and Irwin Stone, Wallerstein Laboratories, 1939.

Hearing Examiner Hier: It is so marked for its identification.

J. E. McClary, for Respondent—Direct

(The article referred to was marked Respondent's Exhibit 94 for identification.)

Mr. Baker: That is dated 1939.

Hearing Examiner Hier: All right, that is Exhibit No.

94.

Mr. Baker: And also an article entitled "Systematic Study of the Influence of Oxidation on Beer Flavor" by Philip P. (533) Gray, Irwin Stone and Lawrence Atkin of Wallerstein Laboratories, presented at the 1947 annual meeting of the proceedings of the American Society of Brewing Chemists and pages 151 to 161 as Respondent's Exhibit 95.

That is in 1947.

Hearing Examiner Hier: That is so marked.

(The article referred to was marked Respondent's Exhibit 95 for identification.)

Hearing Examiner Hier: Off the record.

(Discussion off the record.)

Hearing Examiner Hier: On the record.

By Mr. Baker:

Q. Doctor, I refer you to RX94 and on the first page, the second full paragraph where it is stated, "A considerable body of literature has accumulated in the past few years on the general subject of oxidation in beer as related to its stability. It would be superfluous at this time to go beyond the mere statement of the fact that physical stability of beer is definitely impaired by contact with air. Such oxidation reactions are necessarily influenced by other factors; and the instability manifests itself in grad-

J. E. McClary, for Respondent—Direct

ual changes in color and taste, loss of flavor, and haze development."

Do you agree with that statement?

A. Yes, sir, I do.

Q. Referring you now to Respondent's Exhibit 95, to the (534) first sentence and I quote: "That beer flavor is injuriously affected by oxidations generally accepted without question."

Do you agree with that statement?

A. We do. We have confirmed that, I believe, in our own laboratories as well.

Mr. Baker: I offer Exhibits 94 and 95.

Mr. Mayer: May I ask the purpose of the offer of these documents, sir.

Hearing Examiner Hier: What is the purpose?

Mr. Baker: It may not be necessary. Dr. McClary is an expert. They do confirm his testimony and they confirm his work and his research findings, and he has confirmed their research findings.

Hearing Examiner Hier: Your purpose really is to prove—to offer some evidence, at any rate, that oxidation does interfere?

Mr. Baker: That is right.

Hearing Examiner Hier: I don't know that it is necessary to have in this record highly scientific material.

Mr. Baker: I will withdraw the offer of the documents.

Hearing Examiner Hier: All right. Unless I see by cross-examination they make some inroads on the doctor's conclusion, why I think we can take it as facts.

(The articles heretofore marked Respondent's (535) Exhibits 94 and 95 for identification were withdrawn.)

J. E. McClary, for Respondent—Direct

By Mr. Baker:

Q. What is the practical commercial significance of high air content in beer?

A. Any package of beer which contains more than what is normal for that beer, if it happens to be subjected to more than a normal period in getting from the plant to the consumer, will become very badly off taste and turbid.

Q. Were you in the courtroom this morning?

A. I was.

Q. Did you hear one of the retailer witnesses say that he brought in new beer, he put it in the bottom of his cooler and put the old beer on top?

A. Yes.

Q. Can you operate on that assumption that all bartenders would be that careful?

A. I must admit at this point, however, that insofar as storing in the cold box is concerned, would not—would have little effect on the oxidation. The temperature is too low for any reasonable time to affect it.

Q. The commercial problem then would be—

A. The higher temperatures and rotation in warehouses, and in his storage places of storage.

Q. Does air content of beer change with the age of the beer?

A. Not unless there is a defective cap on the bottle.

(536) Q. Will you please explain for us the various ways in which air gets into the beer?

A. It is very difficult to exclude air from beer. Air is soluble in water, and will be picked up any time liquid, especially at cold temperature, is exposed to air.

J. E. McClary, for Respondent—Direct

Many breweries, therefore, have difficulty delivering beer to the bottle shop with a low air content. The greatest point of variance is in the bottle shop where very great care must be exercised to exclude air. Normally that is done by causing the beer in the bottle or can to foam immediately after it is filled. That is done either by a slight jar on the side of the bottle or by injecting a jet of carbon dioxide into the surface of the beer. As the foam rises it drives, pushes the air out. You have a blanket of carbon dioxide and foam filling the bottle or can.

If that goes immediately without any delay or interruption to the capper before that foam breaks, the air content can be held at a very low level. But uncontrolled operation leads to a great deal of trouble at that point because the minute, if the foaming isn't done properly or if there is some stoppage of the line so that the foam breaks, then you will get high air in the beer.

Q. Doctor, what is the commercial significance of turbidity test?

A. First of all turbidity is objectionable in itself (537) because when people see it in the beer they are drinking they don't like it but perhaps more of interest, as was pointed out in the Wallerstein papers, is definitely correlated with change in taste and flavor of the beer. It will therefore give us a measure of shelf life or stability or what happens to the beer in the trade, and also, if we know the air level, give us a very good guide to the uniformity of our production operation in the brew house and so on.

Q. Does the development of turbidity necessarily depend on air?

J. E. McClary, for Respondent—Direct

A. It does not. In the presence of air, high air, any beer will become turbid, if it is too high. Each depends on the brewing process and a moderate level of air can be compensated for in the brewing process by methods that are well-known in the brewing industry.

Q. Dr. McClary, have you set up standards for package Budweiser or to put it another way, tolerance specifications for air?

A. We operate on close tolerances for air in packaged Budweiser. Those have been set up and the amount of air that we permit in the bottle will depend, naturally, on the size of the bottle.

Q. Well, taking the standard 12 ounce bottle, do you have a maximum air tolerance for that package?

A. We do have. We know that at low, relatively, low levels of air, the air fluctuation within that level has very little effect on the quality of the beer.

(538) Q. What is the tolerance limit?

A. For Budweiser that tolerance limit is approximately one and one-half cubic centimeters per 12 ounces of beer.

Q. And you have also tolerances on the other sized packages?

A. Yes.

Q. Does that relate to your total bottles or a certain percentage of bottles that have to have have?

A. That relates to all packages, cans and bottles of Anheuser-Busch.

Q. Dr. McClary, when was the 1.5 C.C. maximum air tolerance established for the standard 12 ounce bottle?

A. That level, I believe, was set up January, 1953.

Q. And how did you arrive at that limit?

A. We arrived at that limit by checking air content and turbidity of beer over about a ten months period prior

J. E. McClary, for Respondent—Direct

to the issuance of that report. In that report we found that the quality tended to be very erratic if the air was above that level. Below that 1.5 C.C. per 12 ounces of beer we could detect no influx. That was therefore set as our standard.

Q. One point five c.c. is sort of the breaking point?

A. That is the breaking point. Above that it is hard to predict what will happen.

Mr. Baker: At this time, Your Honor, I would like to have marked for identification as Respondent's Exhibit No (539) 96, a report entitled "Research Division Progress Report" signed by J. E. McClary, dated January 13, 1953, consisting of a three-page typewritten report, with attached tables and graphs.

Hearing Examiner Hier: All right. That may be so marked.

(The report referred to was marked Respondent's Exhibit 96 for identification.)

By Mr. Baker:

Q. Dr. McClary, I show RX96, for identification, and ask you if this is the report that you prepared as a result of the ten months research to which you have testified?

A. It is.

Q. I refer you to page 3, and ask you what conclusions are there stated with respect to the effect of air?

Hearing Examiner Hier: Are you going to offer this in evidence?

Mr. Baker: Yes.

Hearing Examiner Hier: No point in him stating it too. Do you have any objection to this exhibit?

J. E. McClary, for Respondent—Direct

Mr. Mayer: No.

Hearing Examiner Hier: It will be admitted in the record.

(The report referred to, heretofore marked for identification Respondent's Exhibit 96, was received in evidence.)

(540) Hearing Examiner Hier: You can cross examine him on it, of course, but I don't see any sense of going into it now.

Mr. Baker: There is one thing I would like to clear up.

By Mr. Baker:

Q. Referring to page 3, Dr. McClary, you conclude, "Stability is directly related to air content. The adverse affect is apparent when the air content exceeds 1.5 millilitres for 12 ounces of beer."

A. That is correct.

Q. What is a millilitres?

A. It is equivalent of a cubic centimeter for all practical purposes.

Q. And one cc is the standard you have set up?

A. That is correct.

Q. I also note from RX96, Dr. McClary, that you refer in here to "startup beer" as well as regular production. Also, the 1.5 c.c.—first, would you describe what "startup beer" is?

A. It is the first beer that comes off of the line from a machine that has been shut down and then put back into operation. This study was done at that point because of the difficulty of getting the air situation under control at that point.

J. E. McClary, for Respondent—Direct

Q. Is that the time when air is most likely to get in in (541) excessive amounts?

A. Yes, that is true.

Q. And one point five c.c. tolerance that you set applies to both "startup beer" and production in the line?

A. To all of our beer in packages, cans and bottles.

Q. Dr. McClary, prior to the time that you made this study to establish this tolerance which was, I believe, January 13, 1953, what methods did Anheuser-Busch employ to control air content?

A. The same methods of measurement were used. However, there were no set specifications.

The rule was to hold the air as low as possible in the operation.

Q. Dr. McClary, what operational measures are taken by Anheuser-Busch to control distribution of Budweiser to prevent over-aged beer from getting to the consumer?

A. Mostly an educational process on the part of our drivers and salesmen to follow up to see that the stock is rotated and moved promptly and in order; and we also have people on call to examine any beer that is suspected, that shows up in the field. It is picked up by the company.

We also have a technical group in our sales department that is always in the field and alert to watch for these problems.

Q. You have testified that you have regularly made tests on (542) Budweiser and that you have also made regular tests on competitive beers.

Since January 1953, have such tests been made on Griesedieck Brothers, Stag, Falstaff beers?

A. They have.

J. E. McClary, for Respondent—Direct

Q. How large are the samples of competitors beer of those three competitors that you have obtained for analysis and how frequently have you obtained such samples?

A. Always in case lots, 24 bottles. And an average eight or nine times per year.

Q. And the 24 bottles are distributed in the test as you have heretofore described?

A. We have already described that distribution and coverage.

Q. How long has this procedure been followed?

A. Since early 1952.

Hearing Examiner Hier: I am interested in that, Dr. McClary. Supposing you find when you test Falstaff beer that it has too much air in the bottle. What difference does that make to you or to Mr. Busch? If your conclusions are correct, Falstaff will fall off in sales because of the taste consideration.

The Witness: Actually, this material has never been used in any public manner whatsoever. But it is information that is useful to us and the purpose of it is to find out as nearly as we can what is the situation in the (543) industry.

Hearing Examiner Hier: That is what I am trying to get at. Supposing they have too much air and oxygen in the competitive beer. That certainly is no worry to you.

The Witness: That is true.

Hearing Examiner Hier: Supposing they have less than you have. The only point of interest that I can figure there is how do they get down that low. You can't find that out from the test.

The Witness: Nevertheless, if they can show us that it is possible by an analysis of the product, it is helpful to us in going out for it.

J. E. McClary, for Respondent—Direct

Hearing Examiner Hier: I can see that point.

The Witness: Furthermore, if they have some method—for example, if their air is running high—higher than Budweiser will tolerate—it would be certainly very interesting to us to start to find out why, what are they doing to compensate for it. We know what these compensating materials are, and what they will do within reasonable bounds. I think we get a great deal of value from the research standpoint.

Hearing Examiner Hier: Supposing you find that Stag beer, for instance, is running pretty high in air. Do you pass that information on to your salesmen for use in selling Budweiser beer?

The Witness: We never have.

(544) Hearing Examiner Hier: I didn't think so. Go ahead.

By Mr. Baker:

Q. Dr. McClary, is there any way of knowing when the beer which you pick up for testing was bottled?

A. Yes, the bottles and cases are coded.

Q. Is that true of all local beers in St. Louis?

A. Yes.

Q. Griesedieck and Falstaff?

A. It is.

Q. And—

A. Stag.

Q. —Stag, yes.

A. Yes.

Q. Do you make any effort to obtain samples to test beer as fresh as you can?

J. E. McClary, for Respondent—Direct

A. We do. We like to make as far an appraisal of their situation as we possibly can. That is, it is worthwhile to us to know exactly what their situation is.

Q. What has been your experience in this regard?

A. Most of it we get a week to ten days, but at times we have had difficulty in getting beer less than a month old or even older.

Mr. Baker: May we go off the record a moment?

Hearing Examiner Hier: Yes.

(545) (Discussion off the record.)

Hearing Examiner Hier: On the record. We have marked for identification here as Respondent's Exhibit No. 97, a graph computation entitled "Total Air in C.C. per 12 Ounce Bottle, Averages of 64 Bottles for 24 Bottle Carton."

That is for 1953, 1954 and 1955.

And as Exhibit No. 98, which is the same thing, except that it refers to turbidity of beers after four weeks at 100 degrees Fahrenheit and one week at 30 degrees Fahrenheit.

And Exhibit No. 99 is the same thing, with reference to turbidity of beers, after three months at 70 degrees Fahrenheit, and one week at 30 degrees Fahrenheit.

(The graphs referred to were marked Respondent's Exhibits 97, 98 and 99 for identification.)

By Mr. Baker:

Q. Dr. McClary, I show you Respondent's Exhibit 97, 98 and 99 and ask you if these were prepared under your supervision and direction?

A. They were.

J. E. McClary, for Respondent—Direct

Q. I ask, Dr. McClary, if they contain all of the information with respect to the tests on the particular beers shown thereon?

A. Yes.

Q. Was the information contained on these derived from your laboratory books and records except in the normal course of (546) business?

A. It was.

Q. And it constituted a transference of that information from your books and records to chart form, is that correct?

A. That is correct. The points given on those charts were transferred directly from the laboratory books that were kept as a daily record of the proceedings in the laboratory.

Q. Does it likewise contain all of the information for particular tests shown on the exhibit for Budweiser beer?

A. Of that category of beer, St. Louis production, yes, sir.

Q. That is the 12 ounce returnable bottle?

A. May I clarify a point here? You said all of the information. No, we don't have the six months samples of there, nor do we have the carbon dioxide content and some other things.

Q. I asked for the particular tests shown?

A. Yes.

Q. Air, four weeks at 100 and three months at 70?

A. Yes, sir; that is correct. That is all of them.

Mr. Baker: I offer these exhibits. Your Honor, all I ask that they be sealed after they have served our purpose here.

Hearing Examiner Hier: Do you have any objection, first of all, to the receipt in evidence of these exhibits?

J. E. McClary, for Respondent—Direct

(547) Mr. Mayer: No. Subject, of course, to their making available to me, if I need it, all of the basic books and record which were used in making up these diagrams, for my inspection or anyone under our supervision.

Hearing Examiner Hier: Is that material in the court room?

Mr. Baker: Do you have with you all of the basic original records from which this was made?

The Witness: The original records are all here and available.

Hearing Examiner Hier: All except the beer.

The Witness: The records are here.

Hearing Examiner Hier: The second question is, do you have any objection to these exhibits being sealed?

Mr. Mayer: No, sir.

Hearing Examiner Hier: Very well, Exhibit 97, 98, and 99, Respondent's Exhibits, are admitted in the record. And since they refer to competitive beers and the analysis thereof, they will be sealed in accordance with the request of counsel.

And by that I mean that they will not be shown or made public to anyone except counsel in this case, the hearing examiner and the Commission, of course, after the case is closed.

(The charts referred to, heretofore marked for identification Respondent's Exhibits 97, 98 and 99, were received in evidence.)

(548) *By Mr. Baker:*

Q. Dr. McClary, referring to RX97, will you please describe what that chart shows?

J. E. McClary, for Respondent—Direct

A: On this chart we have plotted the data for the air content of the samples of beer during the year 1953, 1954 and 1955. The years are divided into blocks across the page from left to right.

The marking on the left-hand side up, the vertical scale from one to four, designates the cubic centimeters of air represented by that level on the graph.

I have drawn a broken line across as a guide which we use as standard. It does not necessarily mean standard for other beers but it is just a reference point for these charts.

The broken horizontal line going across connects the average values for air content obtained in the individual samples taken during the year.

The sample date is listed on the first lettering below the dark line—the dates, 4-21, 5-22, and so on, 1953, and so on.

Q: Now taking 4-21, that test, on beer "c", right under the 4-21 appears the numeral "6" opposite a legend "number of samples." That was the number of bottles that were tested for air content, is that correct?

A: That is correct. In that sample there were six.

Q: And underneath that the "age in days" when that particular— (5-49) the age of that particular—

A: That beer was seven days old when we got it, yes.

Q: And the vertical line running from a low point of .65, to point .80, what does that designate?

A: That designates the spread of air content, the .65 is the air content of the bottle containing the least air. The .80 is, e.e., the amount of air in that bottle containing the most air. The others were between, with the average at .73 as designated.

J. E. McClary, for Respondent—Direct

Hearing Examiner Hier: These circles on here are always the average?

The Witness: That is correct.

By Mr. Baker:

Q. Yes. All right, Dr. McClary, would you refer now to RX 18, and please describe what this exhibit shows?

A. This exhibit is set up on exactly the same plan. Instead of plotting "air" we are plotting turbidity.

Where we had e.c. of air we now have from zero to 40 units of turbidity.

Again, we have put the standard line for reference at 20. That represents a normal consumer beer at what should be a maximum range.

The date, the number of samples, the age, are designated in exactly the same way, and the maximum-minimum and averages and the lines connecting them are the same.

(550) Hearing Examiner Hier: Off the record.

(Discussion off the record.)

Hearing Examiner Hier: On the record.

By Mr. Baker:

Q. Now, Dr. McClary, would you describe what RX 99 shows?

A. It is exactly the same as Respondent's Exhibit 98, except for the time that the beer was stored prior to taking the data. It is three months at 70 and one week at 30 instead of four weeks at 100 and one week at 30.

Q. Dr. McClary, referring to RX 98, for beer "e", I note that on the test dated March 11, the turbidity of that beer ranged from a low of 28 to 50, and that was on a sample containing five bottles.

J. E. Moriarty, for Respondent—Direct

Would you please describe the appearance of a beer with a turbidity of 28 and a beer with a turbidity of 50?

A. Well, the best bottle in that group with the turbidity of 28 would in a bright light appear semi-opaque, the haze would be quite noticeable. One at 50 would be noticeable sitting on a bar at a distance in milkiness or haziness.

Q. Referring to that same example, I note that the spread, that is on RX 98, that the spread 28 to 50, is a considerable spread and I wonder if you comment as to the significance, if any, of such a wide spread.

A. On that turbidity?

Q. Yes.

(551) A. Well, it indicates one of two things. Either the sample has very high air, or, the beer as it came from the brew house was not stable. We know it was not stable because the turbidity developed. It could be due to high air or due to fault in the brewing process itself.

Q. Now five of the bottles on that particular test came out of the same case of beer?

A. They did.

Hearing Examiner Hier: Is there a marked difference in air intake between sealing a can of beer and capping a bottle?

The Witness: It is—the can is much more difficult to control.

Hearing Examiner Hier: Does the heat necessary to seal that can have anything to do with it?

The Witness: No, it is a matter usually of speed. That can is moving so fast, that it sloshes and gets air in under that lid.

*J. E. McClary, for Respondent—Direct**By Mr. Baker:*

Q. I would like to turn to RX 97 now, the graph plotting "c" beer for air and I would like to have you interpret that for us, and tell us what in your opinion the significance of it is.

A. Running it chronologically through the years, that beer appeared fairly normal early in 1953. The average of the air (552) was about as normal for the industry and the spread was not excessive. However, there was definitely a trend upward, both in the average per package of beer and in the spread or lack of uniformity of air content between the packages, in a given sample. That trend reversed, well, only within the last few months, and apparently is on a downward trend as of this moment.

Q. What does this indicate to you, Dr. McClary, overall?

A. Well, it indicates to me that there definitely at some point in their operation there was lack of control. That is, of sir.

Q. That is beer "c"?

A. On beer "c".

Q. On Exhibit 97 that you are referring to?

A. That is correct.

Q. And at what point did it seem to approach the greatest range of variation?

A. Oh, about the middle of 1954 or shortly before. The worst spot was in April.

Q. Now, Dr. McClary, referring to RX 98, would you describe the significance of the turbidity readings for beer "c"?

J. E. McClary, for Respondent—Direct

A. There again going in the same sequence, the data that this shows for turbidity of beer "c" for 1953, was quite normal or in fact quite good.

Again, in early 1954, there are indications that it was (553) badly out of hand. All of the samples, all of the individual packages, in several samples, were above a normal standard for turbidity.

Again, in 1955, the indications are that their process was brought under relatively tight control as indicated by the narrow spread in range and by the low average level.

Q. In your opinion, Dr. McClary, does this data show variations in the quality of beer "c" during the year 1954?

A. In my opinion it proves definitely that there was greater variation.

Hearing Examiner Hier: While we are on that point, will you look at beer "c"? The picture there is pretty sorry, too, isn't it?

The Witness: It is, yes, sir.

Hearing Examiner Hier: One other thing while I have already interrupted Mr. Baker. What these graphs, Exhibit 97, 98 and 99 show with reference to beer "c" during the year of 1954, does that equate commercially with what these witnesses testified to that the beer was green?

The Witness: In my opinion, yes, sir, definitely.

Hearing Examiner Hier: I mean greenness in the lay language is the same as what these exhibits show here?

The Witness: It definitely would be called that, yes. It is a difficult term to define, but if it is not bad enough to be called real bad they will say it is green. That is about (554) the only way you can define it.

*J. E. McClary, for Respondent—Direct**By Mr. Baker:*

Q. There is a definite correlation between turbidity and taste, is there not?

A. I think that all technical people in the industry will agree to that.

Q. That is the whole burden of the Wallerstein studies?

A. Yes.

Hearing Examiner Hier: How much is taste a subjective matter and how much is it an objective measurement?

The Witness: Taste can, except under special conditions, in my opinion be measured as accurately or at least some aspect as accurately as many other scientific measurements, provided there is a standard to taste against.

By Mr. Baker:

Q. Dr. McClary, how much significance do you attach to the variations shown as distinguished from any particular taste characteristic?

A. I think we pointed out that a food product, if it is going to go by a brand, has to have something that distinguishes it, that people can recognize as being that. That builds up, I think, a taste preference for that. Because they get used to it. And once they do become accustomed to that by drinking it over a long period they will recognize that as being the product that to them is right.

(555) Now, if that product is changing and the taste itself one time is one way and another time another way, I don't think they would hesitate to kick over that particular brand of beer. That is my opinion.

Q. From a production standpoint, Dr. McClary, do variations have any effect upon the quality of the product turned out?

J. E. McClary, for Respondent—Direct

A. The production of the beer in the brewery?

Q. Let me withdraw the question. Let me re-frame it. I think you testified earlier that there are certain compensations that can be made for air.

A. That is true.

Q. Does a wide fluctuation in the production output as to air in different packages make that compensating any more difficult?

A. It makes it very difficult. If the spread in the air is too wide it makes it impossible.

Hearing Examiner Hier: Where is the compensable limit?

The Witness: Well, I don't know. I haven't really set up experimental data on these competitive beers to find out where it would be on each one. So far as Budweiser is concerned, we hold a lower level, and our process demands it, because that is the way we get the best—in our opinion—the best product.

Hearing Examiner Hier: Suppose you run over that (556) 1.5, how far can you run over it and still compensate for it with other chemical measures?

The Witness: Some brewers are going up as high as four and five cc of air per bottle.

Hearing Examiner Hier: That is others—what about Budweiser?

The Witness: We compensate but hold the same taste we now have.

By Mr. Baker:

Q. What is the compensating element—what does it do—does it affect clarity or taste?

A. Both to a certain extent, but clarity more than taste.

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TRANSCRIPT OF RECORD

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1959

No. 389

FEDERAL TRADE COMMISSION, PETITIONER

vs.

ANHEUSER-BUSCH, INC.

**ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE SEVENTH CIRCUIT**

PETITION FOR CERTIORARI FILED SEPTEMBER 9, 1959

CERTIORARI GRANTED NOVEMBER 9, 1959

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J. E. McClary, for Respondent—Cross

Mr. Baker: That finishes the direct examination.

Hearing Examiner Hier: You may cross examine.

Mr. Mayer: May we have a few minutes to look over our notes. First of all, I am not able to cross examine this witness. This is my first indication that the doctor was going to be here either by name or in person.

Hearing Examiner Hier: We will give you five or six minutes, or do you want longer?

Mr. Mayer: That may be long enough to determine whether or not I will need further time to cross examine.

Hearing Examiner Hier: Very well. We will take a break for five or six minutes.

(A short recess was taken.)

(557) Hearing Examiner Hier: On the record.

Cross Examination by Mr. Mayer:

Q. When you talk about air being in a bottle of beer, Doctor, what do you mean by "air"?

A. Just plain air, like the air we breathe. Now it will have a slightly different composition. The oxygen-nitrogen ratio will be slightly different but it is the oxygen and the nitrogen gases that are confined within the package of beer.

Q. Similar to the normal room temperature; air or any other, well, air just as it is commonly known?

A. Yes. That is correct.

Q. And in extracting the carbon dioxide, you do not affect that at all?

A. That is correct.

Q. In your analysis?

A. Yes.

J. E. McClary, for Respondent—Cross

Q. Doctor, what was the ratio of air which you said would affect the taste of the product?

A. In so far as Budweiser is concerned, it is 1.5 cc per 12 ounces of beer, or less, above that, depending, well, of course, it varies a little bit in resistance to oxidation. In other words, that isn't an absolute limit but shortly above that you will run into off taste on Budweiser.

Now as I said, I don't know what that limit is for other (558) beers because I know beers vary in their resistance depending on the process and what they do to it.

Q. In other words, then for any beer tested on your Exhibits 97, 98 and 99, you would be unable to conclude anything with regard to the taste of that particular beer?

A. I think it is safe to say, however, that some of the air levels reached would damage any beer that I have any knowledge of.

For example, I have never seen a beer that would not be damaged by more than ten cc of air in the bottle.

Q. Have you ever made a test of all of these brands of beers at more than 10 cc to determine if there was damage?

A. We have tested them when we knew they were high air as compared to normal air. Our turbidity, that always goes high when we have the excessive air, even as shown on that chart. There is a correlation between the turbidity shown and the air level shown. It is not perfect because these other factors, but where you do have a high air it is associated with the high turbidity that is very high air.

J. E. McClary, for Respondent—Cross

Q. Is there any ever such a thing as a taste test run on any of these products?

A. There is.

Q. What is done with relation to Budweiser?

A. You mean do we compare with Budweiser when we taste those?

(559) Q. No, sir. Do you taste test the various bottles of Budweiser which you run through this particular test?

A. We do.

Q. Do you have any analysis or summary of your taste test of these particular bottles of beer which were run through this test or these tests indicated on these exhibits?

A. We have some on those, but being of a subjective nature and subject to judgment I haven't attempted to summarize them. It is a matter largely dependent there on judgment and we depend primarily in the routine testings on the turbidity to give us an index to the state of that beer rather than the taste test.

Q. Turbidity, giving you the appearance of the beer?

A. Well, in our work and in Wallerstein's and in others, the relationship between turbidity and taste has been pointed out and is generally accepted in the brewing industry.

In other words, it is accepted that if you have a beer with a very high turbidity you are going to have off taste in it. That is an accepted situation.

Q. That is an off taste for any particular beer?

A. Yes. In other words, it won't taste like that beer did originally.

J. E. McClary, for Respondent—Cross

Q. Now, sir, if the variations of the air content, can they be specifically compensated for by, let's say, a batch beer of one particular volume manufacture of beer?

A. No, because the manufacturer has no way of knowing if (560) his operation is fluctuating in its air content, he won't be able to fluctuate for any given amount of air.

Now, if he has set up his operation so that he regularly runs two or three or four or five c.c. per bottle of air, then he can compensate all of his production in the same way.

Q. Were there any compensating elements in any of these beers tested by you in preparation of the Exhibits 97, 98 and 99?

A. I am not in a position to state what these brewers did. I haven't that information. I could only surmise from the relationship that I find between the air level and the turbidity that they were compensated for such a factor, and it is recognized in the industry that such a compensation can be and is made by members of the industry. That is common knowledge.

Q. Did I understand you to say that there were definitely compensations made for this air content in the various beers that you tested in this particular, in the preparation of these particular exhibits?

A. I am not, I can't testify as to any specific operation that any of these people made other than ours. I can form a judgment, perhaps, from the data as we see it, but I cannot testify that they compensated in one way or another except as I can conclude from the data that I have at hand. In other words, I have no knowledge of their operations, only the result of the tests that we have.

J. E. McClary, for Respondent—Cross

(561) Q. Likewise you are unable to conclude with relation to the tastes of the various products which are analyzed on these particular exhibits. Is that correct, sir?

A. I prefer not to go into that because of the subjective nature of the test, and it is subject to question. I would prefer to talk in terms of those objective tests there, that are recognized as being indicative of change in the quality of the product. That is turbidity.

Q. And am I correct, Dr. McClary, in stating that in the analysis that you have made here in preparation of these exhibits that you were using only bottled beer?

A. That is correct.

Q. And when were these exhibits prepared, doctor?

A. Within the last two weeks.

Q. Were they prepared for the immediate use in this proceeding?

A. They were.

Q. Now, sir, is it your opinion that these particular exhibits show either a consistency, or a lack of consistency in the taste of the four products appearing thereon?

A. If we accept the data that has been produced that turbidity change, increasing turbidity is related to a change in taste, as shown by Wallerstein and others, then based on that evidence, it is my opinion that such a variation would exist.

Q. In other words, a consumer moving from product "c", "d", or "e" would be moving from a product which is inconsistent (562) in its taste to another product, inconsistent in its taste according to these particular exhibits?

A. Well, I think there that some of those beers shown, show a good deal closer consistency in their quality on aging than others do.

J. E. McClary, for Respondent—Cross

Q. And incidentally, is that only on aging that this particular exhibit would apply? For instance, would this apply the same to one week old beer as 16 weeks old beer?

A. In so far as the beer fresh from the brewery, you could only judge that by the taste. And I am not prepared to make any comments on that. However, one fact which has not been brought out insofar as knowing one beer was changed in its process, the coloring may change noticeably so it is just something that anyone could see.

Q. You mean—

A. With the change.

Q. Other than the turbidity that you have been discussing?

A. Yes, sir.

Q. What effect does chilling for a consistent length of time have upon the air content or the turbidity of the beer?

A. It has no effect on the air content. That is fixed. The chilling—Let me put it this way—the changes in beer that result in the development of a haze, go on faster at high temperatures, but the solid particles that result from that do not show up as a haze except in cool beer.

(563) You have chemical changes which at a high temperature will appear clear, but on cooling the solid particles are precipitated out. That is a common reaction in chemistry, something is more soluble in high temperature than it is at a low, but the significant changes in the beer have already gone on. We chill for a week at 30 degree to establish a common base level for measuring.

Q. Now your tolerance specifications of 1.5 cc that I take it is the result of your investigations, and an attempt at standardization of your particular product?

A. That is correct.

J. E. McClary, for Respondent—Cross

Q. It is possible, well, for example, the other three products appearing on Respondent's Exhibits 97, 98 and 99, that the specification might well be 2 or 2.5 cc?

A. That is true.

Q. Or as high as 3 or 3.5 cc?

A. That is true.

Q. In your opinion then, does a tolerance which is under that particular tolerance, let us say for beer "c" has a tolerance of let us say 5 cc, and is it your opinion then that anything below that, below 5, would not be reflected in the taste of the beer?

A. That is correct, if they are uniform.

Q. Anything with the five?

A. That is right, yes.

(564) Q. Is it the lack of uniformity or the fact that the lack of uniformity is in excess of the tolerance specification?

A. Well, it is the lack of uniformity beyond the acceptable limits that count.

Q. Is there any way in which you can establish the tolerance specifications for the other three products appearing on Respondent's Exhibit 97, 98 and 99?

A. Not from existing data. It would require further laboratory study specifically designed to pin down those points on the individual product.

Q. To make an accurate comparison, though, would it not be necessary to know the tolerance specifications of the other three products before comparing them with the tolerance specifications in this case of Budweiser?

A. I won't go along with that because I believe the turbidity results that we have point conclusively that the variation in quality did exist.

J. E. McClary, for Respondent—Cross

Q. But the variation is in excess, as I understand it. I am just asking for information, it is in excess of the tolerance specification which you have assumed for these three products?

A. Well, let me put it this way: They vary from what we will say was in early 1953 and then again at certain periods, in turbidity development and stability they would be acceptable for our standards but in much of this period of 1954, they went far above any standard that I know of in the brewing (565) industry for haze, acceptable haze limits. And the very widespread—and it does represent a very real widespread in quality as measured by this turbidity change.

Q. Would you care to check your original figures for me and give me in numbers the bottles of beers "c", that you tested, that would be unsatisfactory as far as haze is concerned, in numbers.

Mr. Baker: Will you read the question back?

The Witness: That will take a lot of checking through these books.

(Question read by reporter.)

The Witness: I would have to request an hour or two to do that job.

Hearing Examiner Hier: You can do that between now and 9:00 o'clock in the morning. It is time to adjourn.

Before you go, though, I want to ask you this question: If I understand what Mr. Mayer is driving at, plus what you have been testifying to here, it is not so much the level at which the individual brewer fixes his air content, as it is the question of keeping that level constant. Is that correct?

J. E. McClary, for Respondent—Cross

The Witness: Provided he stays within a reasonable level which so far as I know in the industry nobody will accept as more than 5 cc.

Hearing Examiner Hier: That is what I am getting (566) at. Supposing beer "c" with its own formula is fixed at 3, because that is where the brewer of that particular beer wants to keep it uniform, wants to keep taste uniform, so that his customer will continue to expect and receive the same taste every time they buy a bottle of it, fixes it at 3.

The important factor, if I understand you correctly, is to keep it within very narrow ranges from 3, rather than to keep it down below 3. Is that correct?

The Witness: Yes. That would be correct.

However, in practice the standard can usually be set up at an upper limit and getting air to a lower level wouldn't hurt it, in other words.

Hearing Examiner Hier: We will go on with this in the morning at 9:00 o'clock.

(Whereupon, at 4:30 p.m., the hearing in the above-entitled matter was recessed, to reconvene at 9:00 o'clock a.m., Tuesday, December 13, 1955.)

(567)

Tuesday, December 13, 1955

Met, pursuant to adjournment, at 9:00 a.m.

Before FRANK HIER, Hearing Examiner.

Appearances as before.

J. E. McClary, for Respondent—Cross

(568)

PROCEEDINGS

Hearing Examiner Hier: Are you ready? On the record.

Mr. Mayer: Yes, sir.

Hearing Examiner Hier: Doctor, get back on the stand.

DOCTOR J. E. McCLARY resumed the stand and testified further as follows:

Cross examination (Resumed) by Mr. Mayer:

Q. Dr., directing your attention to Respondent's Exhibits 97, 98 and 99, in the conduct of the tests on the particular bottles and the particular products involved in the study in these exhibits, how many of those bottles were so cloudy on your first contact with them that you would notice it immediately?

A. None of them.

Q. None of them?

A. Yes.

Q. Now as I understand it, on Exhibit 98, these particular bottles were subjected to 100 degree heat for four consecutive weeks.

A. That is correct.

Q. Had they not been subjected to that heat, is it possible that none of them would have clouded up?

(569) A. In that period of time at a temperature, a storage temperature of 70 degrees or in that neighborhood, they would not have been that cloudy. The cloudiness would increase regularly and does depending on the tem-

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perature, but the rate of the development of this cloudiness is a function of the temperature and as a rough rule we can say that the rate will double, approximately double, with each ten degree rise in temperature.

Hearing Examiner Hier: Then, Doctor, look at 98 and 99, and look at 9/13 on beer "c", September 13, on the two charts. One is 40.8 and the other is 37.4. The difference between those two then is not a measure of turbidity due solely to the extra 30 degrees heat reflected on 98 as against 99.

The Witness: What was the date on that, sir?

Hearing Examiner Hier: 9/13.

Mr. Mayer: That is 1954.

Mr. Barton: 9/13 in '54. I mean in 1954.

The Witness: The four weeks at 100 degrees was equivalent, or perhaps a little bit worse than three months at 70. There we see reflected a much higher rate of change at 100 degrees but the difference in time, bringing it up, because the change is progressive with time.

Hearing Examiner Hier: Can I take it then that the difference between 37.4 and 40.8 does reflect the extra (570) heat taking into consideration the length of time for the exposure.

The Witness: Very definitely.

Hearing Examiner Hier: Even though they are not the same bottle?

The Witness: That is correct.

Hearing Examiner Hier: They are out of the same case?

The Witness: They are out of the same case.

Hearing Examiner Hier: All right.

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By Mr. Mayer:

Q. And conversely, Doctor, the less amount of time—suppose in Respondent's Exhibit 99 it had been subjected to 70 degree heat for a period of only one month, then as I understand it, the turbidity would decrease?

A. It would be very much less, yes.

Q. So that if the particular product, product "c" had been manufactured and sold within 30 to 60 days the turbidity would be considerably less than that which appears on Respondent's Exhibit 99.

A. That is true.

Q. Now, Doctor, how do you tell the age of the product of any one of these brands, "c", "d", or "e" upon your acquiring it?

A. Every brewer uses a code which is stamped on the case, (571) itself. Normally, the day of the year, beginning with January 1, is number 1, they are stamped consecutively on each succeeding day.

Q. And that is the uniform code throughout the industry?

A. There may be exceptions. There are certainly definite different codes on the labels. I would have to check our keys to say precisely but that is the system that is used in most breweries.

Hearing Examiner Hier: What does that date represent, the date it leaves the vat, the date it leaves the brewery or date of delivery?

The Witness: The day that the stuff runs through the bottling line.

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By Mr. Mayer:

Q. Now, sir, have you talked to any of the chemists or any of the analysts at the manufacturing facilities of any of these various brands, "c", "d" or "e"?

A. Not specifically, no, sir. That is not normal in the industry to discuss those problems.

Q. Do they maintain research facilities similar to those operated by Anheuser-Busch?

A. They do not, of that I am sure.

Hearing Examiner Hier: None of these three brands?

The Witness: They do not.

By Mr. Mayer:

(572) Q. Now, sir, in the testing of these particular brands, are at any time the labels removed so that the person making the test does not know whether the test is being made of Budweiser or any other brand?

A. On these tests so far as I know the labels are not removed from the bottles.

Q. Then you would know that, wouldn't you, Doctor?

A. Yes.

Q. As there were no labels removed each man conducting the test knew the brand that he was testing at the time?

A. If he wanted to know, yes.

Q. It was obviously that the label was on the bottle?

A. That is correct.

That is the primary reason that we use the objective test, where he takes his reading from a machine.

Q. So that he wouldn't be affected by the label on the bottle?

A. Exactly.

J. E. McClary, for Respondent—Cross

Q. Now, sir, at what point with relation to Exhibit 99, with brand "c", at what precise point in any year, 1953, 1954 or 1955, will the taste of product "c" be affected by the amount of turbidity shown on this exhibit?

A. I am not sure I understand your question. Do you mean how long after we put it on the test?

Q. No, sir, as I understand it, you have testified that (573) turbidity in beer does affect the taste of the beer.

A. That is correct.

Q. Now I want to know when or how much of it, as displayed by this exhibit, at what point would any of these particular bottles or any of these particular lots, would the taste have been affected, by the amount of turbidity shown on this exhibit.

Hearing Examiner Hier: He wants to know whether 24 does it or 37 does it or 36 does it.

The Witness: In order to answer that question, I think I would probably have to refer briefly to some very specific work that has been done on blindfold testing by taste. That is where the samples were coded, and we had tasters who had no way of knowing what sample he was examining.

We have consistently been able to tell a difference in beer by taste, before the turbidity become appreciable. When the turbidity reaches a level of 20, it is readily detected as tested against a fresh sample.

By Mr. Mayer:

Q. Is that in all brands or would that be limited to the particular brand manufactured by Anheuser-Busch?

A. That is in all brands which we have tested in the laboratory.

Hearing Examiner Hier: Then 20 is the limit?

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(574) The Witness: I wouldn't say that. I qualified my statement by saying that tasting against a standard. It would be difficult for most people to pick up on the bar without any reference point, a sample at that point and say that it definitely is damaged. We are just not that acute in our tasting.

However, when it reaches a level of 30, it is my opinion that a beer drinker who is, well, familiar with beer would be able to detect it without a reference or anything else.

Hearing Examiner Hier: What is this change? Is it a change of bitterness or is it a change in flatness or what is the change that you speak of?

The Witness: The bitterness becomes more pronounced somewhat. But the primary difference is one that is more or less characteristic of beer as it ages that we term an oxidized flavor. It is difficult to describe, but it has an odor and tastes just like, very slightly spoiled food, very slight.

Hearing Examiner Hier: Yeast?

The Witness: It could be called a little yeasty.

By Mr. Mayer:

Q. Directing your attention to Respondent's Exhibit 99 in the conduct of that test, how many individual bottles of brand "c" did you find which tested above 30?

A. In the year 1953 for brand "c" there were none above (575) 30.

In 1954 six of 26 samples.

In 1955, none.

Q. I may have misunderstood the description, Doctor, as to the exhibit when it was given. Would you again, directing your attention now to Respondent's Exhibit 99,

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in the left-hand column under brand "c" we see "date" and then number of samples.

Would you tell us what the figures opposite the entry "number of samples" means?

A. That is the number of samples, of bottles in that particular sample.

Q. Those are individual bottles?

A. That is correct.

Q. Now, sir, how many did you say in 1954 were in excess of 30?

A. I can see your point there. It looks like there may have been an error. According to this chart there would be five.

Q. Is the error contained in the chart or is the error in the transposition of your notes to this particular chart?

A. That I would have to check. If you would like I can check it. It probably is in the notes which I referred to last night. All of one group, 9-13, were above the 30 mark which is one entire case. That is four bottles of that case. (576) and one as you will notice from the sample 3-11.

Q. Now, Doctor—

A. Your original question, Mr. Counselor, was not how many above 30 but how many I would regard as being objectionable in turbidity and my figure was based on that and not on 30 precisely.

Q. The question this morning was in excess of 30.

A. Then I would have to refer to the chart, or go back to my original figures to revise the figures that I put in here. You asked me what was in my opinion objectionable and my figures were based on that.

Q. How many was that, sir.

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A. I picked, and going through the individual data last night, I picked six. I can easily see from the chart where that would be. If they crowd the line of 30 very closely—

Q. Now, sir, directing your attention to the date 3-11-54, is that a weighted average, the 27.5 or is that merely an average of the 30 and the 24.5?

A. There were four samples, sir, and that was an arithmetic average of the four samples.

Q. Is it possible that the other three were at 25, the other two, I am sorry?

A. It hardly seems likely since the 27.5 is considerably closer to 30 than it is to 24.5. The other two could not be at 25.

(577) Q. In other words, then, that is a weighted average, 27.5?

A. It is an arithmetic average.

Q. How did you arrive at the 27.5?

A. We added the values and divided by four.

Q. What leads you to believe then that there were more close to 30 than there were to 24.5?

A. Because 27.5 is three points above 24.5 and only 2 and one-half points under 30.

Q. I think I misunderstood you, you added the four turbidities for each and every individual bottle.

A. That is correct.

Q. And then divided by four?

A. That is correct.

Q. Now, sir, your testimony concerning the 30, and the conclusion as to whether or not the taste would be affected at the 30 point on this particular exhibit, would that be common to each product on this exhibit?

A. In my opinion, yes.

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Q. Now, Doctor, with regard to the brewing process itself, as I understand it, that would have little or no effect on the air content, is that correct?

A. It could have an effect. As I pointed out yesterday, air, getting air in your beer can happen in the brewery, if you, for example, transfer beer from one tank to another and the second tank is full of air your pumping beer against a (578) tankful of air and that will rapidly pick up air.

Another point of entry is, as I said, at the bottling where you have to foam your beer to drive out the air above it. A high average air in your sample would indicate that the beer as it went through the bottle shop contained high level of air.

Where a significant number of the samples were low, but with a wide range you would expect the pick-up of air to be in the bottling line.

Q. Can you tell us from examining Respondent's Exhibit 99 with regard to brand "c" where the air—how the air got into that particular product?

A. On the turbidity, no, sir, I wouldn't be able to say even whether there was actually air there, from just examining the turbidity.

Q. How about 97?

A. Let me put it this way: If I had such data on our line, I know what I would start looking to find the trouble, for getting air in the beer. I may be wrong. In other words, you can have a bottling machine that is so out of commission that you are picking up air in every bottle. It is unlikely, but it can happen.

But nevertheless, if I had a wide fluctuation such as we have there at 4/22, varying from .75 to 15 cc, I cer-

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tainly would not, I would certainly look at the bottling line (579) because if you can get a single bottle as low as .75 it was not in your beer when it went to the shop.

However, if I saw one such as 2/11 varying from 1.90 to 2.95, where that is not a very great spread, but even your lowest value is high, I would look at the beer itself to contain quite a lot of air when it got to the bottle shop.

Q. Doctor, prior to 1953, did you run systematic tests on your product and your competitive products for its air content and turbidity?

A. During the year 1952, the major part of our effort was devoted to the development of methods. We were running tests. We did not set up a systematic study such as this is. By a development of methods—I mean primarily that we didn't have at that time a method for measuring turbidity which was objective and satisfactory in my view. This work then on a routine basis started the latter part of 1952, after the method had been proved reliable and in line with our practical experience.

Q. Did you institute certain controls in the bottling process as a result of your studies in 1952?

A. We did, sir.

Q. Had this study been made of the Budweiser products in 1952, would it show a wider range of air content as well as turbidity?

A. I must confess that it did.

(580) Hearing Examiner Hier: I don't think that is clear in the record. You say "Had this study been made in 1952", which presupposes that it did not.

Mr. Mayer: I mean this particular exhibit. Had this

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exhibit been made to show what was happening in 1952, would it disclose that?

Hearing Examiner Hier: The answer was that it did vary more, is that right?

The Witness: That is correct.

By Mr. Mayer:

Q. Approximately how many different brands of beer have you tested since 1953 for air and turbidity?

A. I can only estimate on a routine basis, such as this, we could add four additional brands. On an irregular schedule studies, just periodic checking to get a broader coverage, perhaps we might set up a test that would run for only pick up three or four samples on consecutive months to get a picture, just a quick picture of approximate situation. I would estimate that we have a certain amount of information on some fifty brands.

Q. But these three appearing on Respondent's Exhibit 97, 98 and 99 are the only three that you test regularly and as a matter of course?

A. I mentioned there are four other brands that we do measure regularly.

(581) Q. What brand do you find has the lowest air content in running your tests?

A. Our own beer.

Q. What brand do you find has the best turbidity standing of all brands that you test?

A. Our own.

Q. Would that indicate to you that once a consumer's taste has been satisfied that it will not be changed because of a difference in taste in the product?

Mr. Baker: I don't understand the question.

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Hearing Examiner Hier: The question is whether the Doctor understands it. Do you understand it?

The Witness: I am not quite sure.

Hearing Examiner Hier: All right, rephrase it.

By Mr. Mayer:

Q. The fact that your particular product that you have mentioned has the lowest air content and the best turbidity rating that you have tested, would that indicate to you that once the consumer's taste is initially satisfied that there is little likelihood of a loss of the consumer or the customer because of an inconsistency in the product.

Mr. Baker: I object to the question.

The Witness: I don't believe I am competent to answer that.

Mr. Baker: That is based upon an assumption that (582) he would be initially satisfied.

Hearing Examiner Hier: This is an expert witness. I don't think it is too hypothetical. Do you understand the question?

The Witness: Yes, sir, I understand it.

Hearing Examiner Hier: All right, you may answer then.

The Witness: However, I don't believe I am competent to answer the question except in this: That as we pointed out in testimony, it is our opinion that one of the most important objectives that we have to aim for in the technical end of the business is uniformity. And I also pointed out that we believe there were preferable tastes.

Well certainly, we have other reason to put the emphasis on these things that we do. If it were not our

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opinion that once the consumer became accustomed and appreciated that taste we think he will stay with it—that is our reason for doing this.

By Mr. Mayer:

Q. Now, Doctor, with relation to Respondent's Exhibit 97, 98 and 99, am I correct in concluding that with regard to the four brands displayed thereon, that the Budweiser brand, am I correct in assuming that the Budweiser brand, therefore, is the most consistent in taste of the products appearing thereon for the years to which this exhibit is directed?

(583) A. In so far as we are able to measure it, I would interpret this data that way, yes, sir.

Mr. Mayer: That is all we have, Mr. Examiner.

Hearing Examiner Hier: I would like to ask you this, Doctor: Will you look at brand "c" both for air and turbidity. It seems to me that the gyrations and variations and fluctuations, whatever you want to call them, of brand "d" are as bad or, if not worse, than brand "c". Do you so interpret it?

The Witness: I agree with you, except during the short period 1955 and 1954.

Hearing Examiner Hier: Yes, and it also occurs to me that brand "e" so far as rubidity goes, is more consistent with further variations than brand "f". I mean graphically that is what this presents to me. Is that correct or do you so interpret it? I am not talking about air. I am talking about turbidity.

The Witness: I understand. The data is not entirely consistent between the two points and I am afraid that more samples would have to be analyzed to pin it down

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any closer. We have statistical evidence here that would indicate that in one case "f" is superior and in the other test "e" is slightly superior. I don't believe that the difference between the two in turbidity is marked or very significant.

(584) Hearing Examiner Hier: Any more redirect?

Before you start on this, another semi-bright idea occurs to me. Following up that question that I asked you about brand "d" showing more gyrations than brand "e", you were in the room yesterday and heard the testimony about switching.

The Witness: Yes, sir.

Hearing Examiner Hier: How could that be?

The Witness: It seems to me, however, that when anyone mentioned a marked increase in their sales they referred to brand "e".

Hearing Examiner Hier: I agree with that, but there was some switching over to brand "d", at least a couple of these fellows so testified that either one or the other, most of them said, were brand "d", obviously under less control than brand "e" and brand "e" discussing or knowing the taste of the consumer, why would they go and say in some instances with a brand which showed more variations?

I know you are not a commercial man and all of that, but I want to get it from the chemical side.

The Witness: Well, I don't think there is any real explanation for it. Brand "d" is a local product. It has been favored in many of those markets for many years. And the local product, the bulk of which will be consumed relatively fresh.

Hearing Examiner Hier: On that point, if I recall (585) this record correctly from the past, brand "e"

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is possibly being a local product, there is a brewery in St. Louis of that brand.

The Witness: That is correct.

Hearing Examiner Hier: Whether or not the deliveries are made from that brewery or not is a question. I assume they would be.

All right, Mr. Baker, you may proceed.

If you have any clean-up questions, all right.

Redirect Examination by Mr. Baker:

Q. Doctor, will you refer, please, to RX 99, beer "c", the test dated 9 13 in 1954. Mr. Mayer asked you on cross-examination if that beer were from 30 to 60 days old the turbidity would be much less.

The question that I want to ask you is this: That would be assuming the conditions of the test that that beer had been held at 70 degrees for one week?

A: That is true.

Q. In other words, at the same temperature?

A. That is true. The evidence on RX 98 shows that if it had been at a higher temperature, 100 degrees for four weeks, it was even worse than that shown on 99.

Q. Late yesterday afternoon Mr. Mayer asked you to pick out the number of beers which you considered objectionable (586) so far as turbidity is concerned on RX 98, 99.

This morning he asked you for only one of them, and I believe that was RX 99 for beer "c", in 1954.

Looking at RX 99, on beer "d" for the year 1953, and 1954, will you give me the respective figures for each year?

A. Beer "d", 1953, 21 of 38 I would consider objectionable.

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Q. 1954?

A. In 1954, 21 of 34.

Q. And in 1955?

A. None.

Q. Now turning to RX 98, beer "c" for the year 1953.

A. Two of 45.

Q. And for 1954?

A. Eight of 35.

Q. Now going to beer "d" for the year 1953?

A. 35 of 44.

Q. And beer "d" for the year 1954?

A. 20 of 30.

Q. Dr. McClary, with reference to this deviation, that is the number which you would consider objectionable from the norm, have you prepared a table giving that information?

A. The deviation from the average of prepared, yes.

Hearing Examiner Hier: That will be Exhibit No. 100, Respondent's Exhibit.

(The paper referred to was marked Respondent's (587) Exhibit 100 for identification.)

By Mr. Baker:

Q. Referring to Respondent's Exhibit 100 for identification, will you please explain what this shows in code?

A. For beer "c" in 1953, for air level, in 1953, beer "c" had an average air level of 1.140, c.c. per package, with a standard deviation of .775.

In 1954, the average air content per package was 2.133, with a standard deviation of 2.387.

And for 1955, the air level was 1.860, with the standard deviation of .761.

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Hearing Examiner Hier: What do you mean by standard deviation?

The Witness: That is the average.

Hearing Examiner Hier: The average deviation, isn't it an average of deviation?

The Witness: No, sir. It is a statistical formula. It is not really an average but it is and can be interpreted as the average scatter around the average point.

Hearing Examiner Hier: The word standard throws me.

The Witness: That is a standard formula that is used in a statistical analysis.

Hearing Examiner Hier: Go ahead.

By Mr. Baker:

(588) Q. Is that taking enumerable samples, you would expect that scatter, is that correct?

A. That is correct.

For beer "d", we have an average for 1953 of 2.348, and standard deviation of .795.

1954, 2.456, with an average 1.135.

For 1955, beer "d" 1.929, with .348 standard deviation.

For all practical purposes, these average and deviations show exactly the same and confirm what is shown visibly on the charts.

Q. That is referring to Respondent's Exhibits 97, 98 and 99?

A. That is. This simply furnishes for the statistical record a proof that that trend and scatter actually exists.

Mr. Baker: We offer Respondent's Exhibit 100.

Mr. Mayer: We have no objection.

Hearing Examiner Hier: All right. Admitted.

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Mr. Baker: On the same basis.

Hearing Examiner Hier: Respondent's Exhibit 100 is admitted in the record with instructions to the Division of Legal Record that the Exhibit be sealed.

(The paper referred to, heretofore marked for identification Respondent's Exhibit 100, was received in evidence.)

Hearing Examiner Hier: Under the same circumstances (589) and conditions as that attached to Respondent's Exhibits 97, 98 and 99.

Mr. Baker: That is all we have with this witness. Recross?

Mr. Mayer: We have no further questions of the doctor at this time. I would like to reserve any right to recall him, however, upon subjecting this to analysis by experts in his particular field.

I'd also like to comment on the severity of this document. In my opinion to adequately test this it would be necessary to show these documents to the concerns involved.

Hearing Examiner Hier: There is no point in sealing them, then.

Mr. Mayer: I can show them one at a time. The one product involved on it at a time, rather than showing any competitor any information with regard to any other competitor on it. I feel that would be necessary and must be done, to protect the public interest here.

Hearing Examiner Hier: Just how would you show—you mean slice this thing off here?

Mr. Mayer: Yes, sir, make a copy of it, an exact copy of the form with regard to brand "e" and thus discussing it with them use that.

Melville R. Garner, for Respondent—Direct

I think it is only fair to have this tested by the experts at each and every one.

(590) Hearing Examiner Hier: Let us go off the record.

(Discussion off the record.)

Hearing Examiner Hier: On the record.

All right, Doctor, you are excused for the time being.

(Witness excused.)

Mr. Mayer: If we could have just a minute, I would like to depart for a minute and talk to another examiner about a hearing that I am trying to get postponed.

Hearing Examiner Hier: We will take a five minute break.

(A short recess was taken.)

Hearing Examiner Hier: On the record.

MELVILLE R. GARNER was thereupon called as a witness for the Respondent and, having been first duly sworn, testified as follows:

Direct examination by Mr. Baker:

Q. Mr. Garner, are you presently employed by Anheuser-Busch?

A. No. I retired about August 1st from Anheuser-Busch.

Q. This past year, 1955?

A. Yes, sir.

Q. Prior to your retirement, Mr. Garner, what was your position with Anheuser-Busch?

(591) A. Food Store Sales Manager.

Melville R. Garner, for Respondent—Direct

Q. And how long had you held that position?

A. Well, that position was established, I think, about July 1951.

Q. Prior to that time, what had been your duties with Anheuser-Busch?

A. Well, my duties had been in charge of the activities of developing food store sales without any real title, and in addition to that, during certain periods there I was District Manager in various areas.

Q. When did you first undertake duties for the company of promoting sales to grocery stores?

A. In October 1958, I was hired for this specific purpose of developing food store sales.

Hearing Examiner Hier: That raises a question in my mind. What was your background? You were hired for that specific purpose. You must have had some experience in that line. Did you?

The Witness: Yes, sir, I did. My experience in that line was as a merchandiser, buyer, and salesmanager with Sears Roebuck and Company, for eleven years, during which time I accumulated a great deal of experience along that line.

By Mr. Baker:

Q. Would you please, Mr. Garner, state the position of Anheuser-Busch with respect to recognizing the importance of (592) the grocery store channel in attempting to develop sales through that channel?

A. Well, I believe Anheuser-Busch was the first, in fact I know, or rather so far as I know, Anheuser-Busch was the first brewery that had a complete national cam-

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paign because I developed this campaign shortly after I came with the brewery, or rather outlined it.

Mr. Baker: I'd like to have marked for identification as Respondent's Exhibit 101, 102 and 103, letters of Mr. Garner's.

Hearing Examiner Hier: The first letter is from whom?

Mr. Baker: The first one, number 101 is from Parsons, dated September 19, 1955.

The second is from Harold P. Echternach, dated July 13, 1955.

And RX 103, from L. W. Gabbel, July 21, 1955.

Hearing Examiner Hier: So marked.

(The letters referred to were marked Respondent's Exhibits 101, 102 and 103 for identification.)

By Mr. Baker:

Q. I show you these exhibits and ask you if they are true copies of letters which you received upon your retirement from the company?

A. Yes, sir, they are.

(593) Mr. Baker: I offer them.

Mr. Mayer: I certainly don't see any relevance to the documents which we have just marked and identified. Frankly, I wonder what the purpose of the offer is.

Hearing Examiner Hier: I don't, either, Mr. Baker. We can assume for the purposes of this record that the witness did a bang-up job or he wouldn't have been kept there.

Mr. Baker: They primarily go, Your Honor, to the efforts which Anheuser-Busch as a company made over a

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long period of time, in the grocery store channel distribution.

Hearing Examiner Hier: I see. I understand that is your purpose, but I don't see anything in these letters that would give any details on that point.

Mr. Baker: The detail will come.

We won't press the offer.

Hearing Examiner Hier: I won't accept them at the moment. We will see what develops here.

By Mr. Baker:

Q. Mr. Garner, you testified that you were employed specifically for the purpose of developing sales through food stores, in 1938. Will you tell us, please, in general the program followed under your supervision to this end?

A. Well, there were several main points. Number one was to sell grocers who didn't have a beer license on the idea of buying a license and putting in a beer department and handling (594) Budweiser and other beers.

And the next one would be to sell a grocer who had a license and handled other beer but did not handle Budweiser to put in Budweiser.

The next point would be to sell a grocer who had a license and was handling beer, including Budweiser, but whose sales were not as good as they should be on doing a better merchandising and selling job.

And then, in addition to that, of course, we did a lot of work in contacting the various state associations over the country and also State ABC Boards and other authorities of that type in connection with our activities.

Mr. Baker: I would like to have marked for identification Respondent's Exhibit 104, a five page document signed

McLille R. Garner, for Respondent—Direct

by Mr. Garner, dated January 18, 1940, entitled "Answer to Grocery Store Contests."

Hearing Examiner Hier: Very well.

(The paper referred to was marked Respondent's Exhibit 104 for identification.)

By Mr. Baker:

Q. I show you Respondent's Exhibit 104 for identification and ask you if you prepared this document?

A. Yes, sir, I did.

Q. Would you tell me, please, what the purpose of the document was?

(595) A. Well, this document is arranged in question and answer form, and it really includes the majority of the points which were the basis for training our sales organization, including our wholesalers and branches on developing more Budweiser sales in food stores.

Q. It is in the nature of a training?

A. Training, this is the basis for a training, complete training program.

Mr. Baker: I offer Respondent's Exhibit 104.

Mr. Mayer: Mr. Examiner, I fail to see the relevance of this document, either. I think we are willing to concede if Anheuser-Busch is an aggressive merchandiser of its products. I don't think this adds anything. I don't see to what particular event this can possibly be related.

Hearing Examiner Hier: That is what is worrying me.

Mr. Baker: This record is replete with evidence of two channels of distribution for beer. They are entirely different channels. They are different channels from the merchandising standpoint and from a price standpoint. We think that we have the right to go into this one chan-

McVillic R. Garner, for Respondent—Direct

nel and show what the factors, economic and otherwise, are, and the problems that Anheuser-Busch faces in that channel of distribution. We think it relevant to meeting competition defense. We think it is relevant to the changing market (596) conditions.

Hearing Examiner Hier: It escapes me. I don't see how it—I will assume—I assume it anyhow. Budweiser has pushed retail store sales, off premise sales or whatever you want to call it, grocery store sales to the limit.

The record shows that there has been quite a change in beer distribution over the period of years. When I was a boy it was draft beer. About the only time you got beer in bottles was when the old man had it delivered to the front door. Not the six horses, just two of them.

This picture has changed. The record shows it. Supposing you have done a bang-up job in pushing beer through grocery stores, how is that in defense to this?

Mr. Baker: I think the record will show before we get done we have not done a bang-up job in pushing beer in grocery stores.

Hearing Examiner Hier: Even so, how is that a defense to this price thing?

Mr. Baker: We have the two channels of distribution. I don't see how we can possibly lay a basis, the ground work for that defense, without showing what the situation is within the channel of distribution.

Hearing Examiner Hier: What you are telling me is that these three competitors in the St. Louis area were doing a better job in the grocery store than you were and that is (597) reason you conducted this price experiment, is that it?

Mr. Baker: That is one facet.

Mcbrille R. Garner, for Respondent—Direct

This is a small amount of material that I want to put through Mr. Garner showing what Anheuser-Busch attempted to do in that field. We will follow later with more specific detailed information.

Hearing Examiner Hier: This material does not touch on it. I understand that.

Mr. Baker: Granted—we have to start. We can't start and jump into the thing in the middle. It seems to me that we have to show what the considerations are in that channel of distribution, in order to lay a ground work for meeting the competition defense in that area.

Hearing Examiner Hier: Do you agree with me that through meeting the competition in defense will of necessity have to be confined to St. Louis and St. Louis County?

Mr. Baker: No, we do not.

Hearing Examiner Hier: Do you mean to tell me that if you are meeting competition in Washington—you have competition in Washington here from Schlitz and Pabst, and so forth and so on, in the Safeway Stores and so on here, that that is a defense to this price drop in St. Louis County?

What becomes of your localized?

Mr. Baker: Of course, in our view there are a number of answers to the objection that Your Honor raises.

(598) Hearing Examiner Hier: It really isn't an objection on my part. It is a question.

Mr. Baker: Yes. What we would like to suggest is that we be allowed to proceed with this, and move into our defense, subject to a motion to strike this evidence.

We think that we can't jump into it in the middle. We have got to build up a logical picture here.

You can't do it by starting at the back end.

Mcville R. Garner, for Respondent—Direct

Hearing Examiner Hier: Well, I usually allow that when the terminal point is not too clear but it seems to me here that the terminal point is fairly clear. I don't see how the competition that you have around the country for grocery store business can be used as a defense to an area price drop in one county.

Mr. Baker: Let me say this, Your Honor: We are in competition over a broad area. I see nothing in the meeting competition defense which precludes us from starting some place.

Hearing Examiner Hier: You are familiar with the Nichoff case recently decided. That point was squarely raised in that case. It is on appeal in the 7th Circuit now. They raised the question in a factual posture, that was damaging as anything could be from the Respondent's standpoint.

They had 32 products. They had competitors. They took the flat position, "We cannot meet competition individually (599) locally and specifically. It can't be done."

And I agreed with them. The Staley case makes no such exception and the Commission sustained that case.

Mr. Baker: I think the Nichoff case is quite a different factual situation than this case, Your Honor.

Mr. Mayer: It is, frankly, more awesome when you consider that the Nichoff case was a secondary case and this is strictly area products.

Hearing Examiner Hier: That is right.

Why is it you can't make a suitable and detailed proffer in this record on this point. I am not inclined to let this evidence in and then strike it. It takes up a lot of time and effort on your part as well as ours.

Melville R. Garner, for Respondent—Direct

Mr. Baker: Your Honor, assuming that we could prove in this case that for 15 years Anheuser-Busch has made every effort to break into the food store distribution channels, the super markets, etc., and that after that 15 years we have infinitesimal standing in that channel of distribution, especially the super markets, the food store, that for example, in New York City we are doing less than one percent of the business through food stores, yet our overall national share of the total market is something in the neighborhood of something like seven percent—your Honor has stated that you would not freeze this company with any fixed differential.

Hearing Examiner Hier: I didn't say I wouldn't (600) I don't see how it could be done.

I don't think it should be done, as a matter of fact, but then I am not closed on this subject yet.

Mr. Baker: How can we show the necessity of not freezing without painting a full picture on what the practical commercial sales problems are in that channel of distribution. I think that nothing does it more dramatically than the figures that I just cited to Your Honor.

Hearing Examiner Hier: I would think that he would concede, that Government counsel would concede that without the necessity of putting witnesses on the stand—that you have for 15 years made an intelligent, vigorous, aggressive and perhaps expensive effort to build up your off premise grocery store or other dispensary as distinguished from a saloon or something of that sort type of business, and I don't think he would contest, although he probably would not concede, the figures that you put in.

I will let you put those in but I don't see the necessity of going through into all of these sales efforts and training program and all of that sort of thing.

Melville R. Garner, for Respondent—Direct

Are you willing to so concede?

Mr. Mayer: Yes, sir, with the exception of the figures themselves.

Hearing Examiner Hier: Yes, sir.

I don't think there is any doubt about that.

(601) Mr. Baker: I wanted to make sure I understand the stipulation.

Hearing Examiner Hier: All right. You state it and see if he agrees with it.

State it as broadly as you please.

Speaking of efforts now and not results, you have to prove the results. He won't stipulate as to those—

Mr. Baker: As I understand the stipulation, it is this, that since 1938, Anheuser-Busch has made a determined and vigorous effort to get into the food store channel distribution at great expense. That as of today their share of the market is far from commensurate with the effort that they have put into it; that their sales results are far, far below their national average of sales to total sales.

Mr. Mayer: We will stipulate concerning the efforts made by Budweiser to merchandise its product in this field. The results of those efforts I think he should develop as a matter of fact from the witness.

Mr. Baker: We will develop the specific evidence, what the results have been.

Hearing Examiner Hier: All right. Now, Mr. Smith, I want to make it clear on this record that the only reason I am taking this testimony is not because I think it is germane to a defense of meeting competition in good faith to an area price discrimination in St. Louis and St. Louis County, I am taking (602) it mainly for the pur-

Melville R. Garner, for Respondent—Direct

pose of having a background onto which this possible order can be evaluated.

In other words, if counsel for the Government is going to contend for an order which establishes or fixes or freezes a given differential not uniform but a given differential around the various areas in the country, then I think this evidence is probably germane on that point.

I don't think that, as I said before, it is a defense to show meeting competition in New York, Minneapolis, San Francisco or some other point, where you have a primary line injury case with the price experiment as you call it, localized in one county.

Mr. Baker: We would like to ask your Honor to reserve decision finally on that point.

Hearing Examiner Hier: That is my tentative view at the moment. But I am making it clear that I would not take this evidence except on that point. It may be as this thing develops and goes along I may change my point of view. I don't know what your facts are. But from what you have stated they don't impress me very much at the moment.

Mr. Barton: If Your Honor please, I might state first at the conclusion of the motion to dismiss, and when Your Honor rules—there was a statement—that we were going to be permitted to go into the field, in other words—

Hearing Examiner Hier: Yes.

(603) Mr. Barton: —to explain this marketing situation rather broadly.

Now, the basic fact of the market is that the distribution of beer over the years has been changing from the tavern to the grocery store; that the position of Anheuser-Busch as a national brewery has been in the tavern rather

Melville R. Garner, for Respondent—Direct

than in the grocery store; that that process of change is posing a problem for the continued Anheuser-Busch program of sales; that the popular priced brands such as Falstaff have in a short number of years grown rapidly and at the expense in many areas of Anheuser-Busch sales in those areas; that this matter of distribution through grocery stores is an integral part of the full elucidation of that problem; and that, therefore, the evidence on this point is basic to the meeting competition defense.

If Your Honor please, there are very few exhibits on this point and if they could be marked for identification, so they are available, I think it would be a desirable thing.

Hearing Examiner Hier: You can mark anything. Mr. Mayer, you do not contest these first postulates, the first three statements, do you?

Mr. Mayer: At this time, no, sir. It is already in this record. It has been testified to.

Hearing Examiner Hier: The first three statements he made?

(604) Mr. Mayer: It is in the record.

Hearing Examiner Hier: All right, put them up here and let us get them marked then.

Mr. Baker: I have them marked.

Hearing Examiner Hier: You already have them marked?

Mr. Baker: Yes.

Hearing Examiner Hier: Respondent's Exhibit 106, is a two page presentation entitled "Complete General Outline of Distributors Activities in Connection With Grocery Campaign."

No. 106, is a seven page document entitled "Sales Presentation to Grocer to Get Him To Buy License."

McLille R. Garner, for Respondent—Direct

Exhibit 108 is a 46 page brochure, printed by the respondent, entitled "Written By Grocers For Grocers."

No. 107 is a 23 page brochure, printed by the Respondent, entitled "Grocers Profits are Too Low."

No. 109 is a four page printed document entitled "Anheuser-Busch, Inc., Development of Grocery Store Outlets."

No. 110 is a brochure of the Respondent entitled "Where Did they Buy the Beer?"

Since this is unpagged, the reporter will page it with a numbering machine.

No. 111 is a two page letter from the Hearst Advertising Service, to the witness, Garner, dated November 15, 1951.

(605) No. 112 is an eight page reprint, entitled "Sales Presentation to Grocer to Sell him on Setting Up a Display or Putting in Budweiser."

Mr. Baker: Your Honor, all of the exhibits which you have just identified in the record, with the exception of the last, No. 112, I wish to offer at this time. I am not offering 112, the Exhibit 104 through 110 consist of promotional material of one type or another prepared by the witness Garner.

No. 111 is a letter which confirms some of the factual data in Respondent's Exhibit 110. I offer those exhibits.

Mr. Mayer: We have the same objection, Mr. Examiner, that we raised to Respondent's Exhibit 104.

Hearing Examiner Hier: It has been stipulated that Anheuser-Busch has gone to all of this trouble and effort. I don't see the point in these exhibits. This record will be pretty cumbersome before we get through with it. I am going to hold up ruling on them and see how we get along, see what you develop.

Mcville R. Garner, for Respondent—Direct

By Mr. Baker:

Q. It has been now stipulated, Mr. Garner, between counsel for the Government and counsel for Anheuser-Busch, that Anheuser-Busch made intensive efforts to get into the food store channel of distribution with their Budweiser beer beginning at a very early date.

(606) Will you tell us generally what success from a sales standpoint Anheuser-Busch has experienced in their beer sales through grocery stores?

A. Well, much to our regret I don't think that Anheuser-Busch got sales results comparable to competing local breweries commensurate with the amount of time and money we spent.

For instance, we had distribution in a lot of food stores. We had good stock of merchandise in the stores. We used the last few years a series of special related items displays, displaying Budweiser and related food items and we did all of the things that are commonly done by a sales organization, or that we knew how to do.

But we just did not get the sales. For instance, in New York City, I know it was fairly common there to find stores only selling two or three cases of Budweiser and they had been selling 40 or 50 cases of Rheingold or some of the other beers.

Q. To what do you attribute the poor showing of Anheuser-Busch in grocery store channels?

A. Price was the most important thing. The customers, in supermarkets and food stores generally, but particularly in supermarkets, they have a lot of lady shoppers and ladies are very price conscious and they go in there and if they find one item is a little higher than the other, if they have a reasonable faith in the lower priced item

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they will buy the lower priced item; so that is a very important factor.

(607) Q. I show you Respondent's Exhibit 112 for identification and I ask you if you prepared that?

A. Yes, I did.

Q. When did you prepare that, approximately?

A. I think it was prepared about 1950.

Q. What was the purpose of this document?

A. That is a story that the salesman tells to the grocer in making the sale. That document was prepared to train salesmen in our sales organization.

Q. In what form is it set up?

A. It is a question and answer form. In other words, grocers objections to putting in Budweiser and our answers to those objections.

Q. Looking at this document, Mr. Garner, how many pages are there in it?

A. Eight.

Hearing Examiner Hier: I think there are eight.

By Mr. Baker:

Q. Turning to pages four, five, six and seven, will you tell me what objections raised by the grocer you attempted to answer on those pages.

A. Price, high price of Budweiser as compared to the local beers.

Q. And these were the answers to those objections?

A. We gave our salesmen to use.

(608) Mr. Baker: I offer 112.

Mr. Mayer: I think this is in the same category as 104.

Hearing Examiner Hier: I am going to hold it up for the moment. Go ahead.

Melville R. Garner, for Respondent—Cross

Mr. Baker: You are delaying ruling?

Hearing Examiner Hier: Yes, I want to see where this thing is going.

Most of this material I think has been stipulated. This perhaps has not. But the rest of it has.

Mr. Baker: That is all we have of this witness.

Hearing Examiner Hier: Mr. Mayer.

Cross-examination by Mr. Mayer:

Q. Mr. Garner, the trouble in New York City between—you said Budweiser efforts were not too successful was because of price.

A. That was one of the factors, yes, sir.

Q. Was Budweiser selling at a price higher than the price of the local beers in New York City?

A. Yes.

Q. And is that pretty generally true in the grocery outlets with which you are familiar?

A. Yes, it is.

Mr. Mayer: That is all we have.

(609) Hearing Examiner Hier: Wait a minute. I am far from satisfied. If you boys are not going to ask it, I will ask it.

What is the difference, what is the greater price?

The Witness: You can't say there is a fixed differential.

Hearing Examiner Hier: I understand that but I mean, he is talking about New York City—what is it in New York City?

The Witness: As I recall it, I think Budweiser was selling at 18 cents, two for 35 cents, and the local beer probably maybe 15 cents, something like that.

Melville R. Garner, for Respondent—Cross

Hearing Examiner Hier: Tell me this: Is Budweiser the same or very close to the same price as the other so-called national beers such as Millers and Pabst and Schlitz, Blatz, that is all I can think of at the moment?

The Witness: Normally the Budweiser price was. Occasionally we ran into slight variations there but normally the Budweiser was the same as Schlitz, Pabst, etc.

Hearing Examiner Hier: When you say that your results from grocery store food outlets were not commensurate with your efforts, of course that is necessarily a subjective judgment. Is that your judgment, or Mr. Busch's judgment or the Board of Directors judgment, or is there any standard or any line upon which we can throw it, one against the other? (610) I mean, for a comparison basis. I want to know who made that judgment.

Mr. Baker: May I break in there to say this?

Hearing Examiner Hier: Sure.

Mr. Baker: We are going to have the most specific type of statistical data on that very point that Your Honor is raising now.

Hearing Examiner Hier: I don't see how statistics can answer that questioning. He expresses the opinion here that they were not commensurate. I want to know what the basis of that opinion is, if it is in addition to these statistics. That man won't be here when you get the statistics in the record. That is the trouble.

But tell me, what is the basis of that statement?

The Witness: Well, my idea was that we did or tried to do a more detailed and complete job in food stores than many of our local competitors over the country. As a matter of fact, we had a good store organization functioning.

Melville R. Garner, for Respondent—Cross

Hearing Examiner Hier: What it boils down to then is this, Mr. Garner, what you are disappointed in is that you spent more time, money, and effort than the local beers have commensurate with the amount of sales you had as against the local beers. You expected to do a great deal more business than you have actually done for the contribution.

The Witness: Yes. Perhaps if I could make (611) another point there and that is this: It just did not seem to me that we had been able to do a good enough job of having these people who are price conscious go into a food store and pick out Budweiser in preference to some of the other beers in sufficient quantities.

In other words, we would have a very expensive display piece that we would put up in a store, and that piece might cost—we used them in quantities of a thousand—and it would cost maybe \$5 or \$6 or \$7, just the cost of the display only, but in addition to that, the man had to sell the grocer on letting him put it up, and then he had to go in and put it up and, of course, he put up a lot of other merchandise with it. So it was fairly costly.

It did not seem to me, or rather—let us put it this way—I was not able to sell our company that we were getting sufficient results from the type of expenditure we had.

Hearing Examiner Hier: You put up this expensive point of sale advertising, and half a dozen customers would buy six cans a piece when some local beer on the back shelf had not spent a dime on advertising would walk out of there with 25 or 30. Is that it?

The Witness: That is the point.

Melville R. Garner, for Respondent—Cross

Hearing Examiner Hier: You say that was due, in your opinion, largely due to the price?

(612) The Witness: There were other factors, too, but price is an important factor.

Hearing Examiner Hier: What were the other factors?

The Witness: I think advertising is a highly important factor. In other words, consumer acceptance. In all of these areas, these local breweries built consumer acceptance by using all of the known consumer advertising media.

For instance, Rheingold in New York spend, I don't know, but I would imagine millions in using a lot of media to sell the consumers there. It was just our general understanding, we could not possibly hope to meet expenditures of that kind.

Hearing Examiner Hier: Is there a single chain in the country having more than 25 units in which Budweiser is not presently sold?

The Witness: Yes, there are. But those chains are not licensed, we will say.

Hearing Examiner Hier: I see.

The Witness: In other words, we made the point that we do have distribution. I don't believe there is a chain having more than 25 units, I mean that is just an off-hand estimate. I would not want to make that as an exact statement.

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(613) Hearing Examiner Hier: If I understand it correctly, this campaign of yours resulted in sufficiently wide distribution?

The Witness: We got distribution.

Hearing Examiner Hier: But the volume was unsatisfactory?

McNeill R. Garner, for Respondent—Cross

The Witness: That is right. We just could not get the sales result.

Hearing Examiner Hier: Well now, one other question that I suppose both counsel are going to get upset about. Neither one has asked it.

Is there any place in this country in these food outlets to your knowledge at the time you left—you retired from your present position?

The Witness: Yes.

Hearing Examiner Hier: —where Budweiser was selling at the same price as the local beer, the same price to the consumer?

The Witness: Yes—well, let me think, and then let me also think again as to what you call local beer.

In other words, in some areas these so-called local beers varied in prices.

Hearing Examiner Hier: All right. I will put it this way, any beer except Schlitz, Pabst, Millers, Blatz, any except those?

(613a) The Witness: Those are nationally known beers. I don't recall any place right off-hand. You are talking about in licensed food stores?

Hearing Examiner Hier: Yes, I am talking about food stores. I am not talking about taverns and I am not talking about package stores. I am talking about food stores, these outlets that you had supervision over.

The Witness: Yes. Right off-hand I don't recall it but that still does not mean—I mean, I obviously could not be in touch with prices.

Hearing Examiner Hier: I understand.

The Witness: In all of these areas.

Max M. Zimmerman, for Respondent—Direct

Hearing Examiner Hier: Did I open up a Pandora's box for either one of you?

Mr. Barton: No, we will have the facts on that whole question by very extensive surveys, so that I think that question will be sufficiently illuminated.

Hearing Examiner Hier: All right. Anything more from Government Counsel?

Mr. Mayer: No.

Hearing Examiner Hier: You are excused. Thank you very much.

(Witness excused.)

Mr. Baker: Can we take a five minute recess?

Hearing Examiner Hier: Yes.

(A short recess was taken.)

(614) Hearing Examiner Hier: All right, gentlemen.

Mr. Baker: Mr. Zimmerman, please.

MAX M. ZIMMERMAN was thereupon called as a witness on behalf of the Respondent and, having been first duly sworn, testified as follows:

Direct Examination:

Hearing Examiner Hier: What is your first name?

The Witness: Max M. Zimmerman.

By Mr. Baker:

Q. Mr. Zimmerman, what is your home address, please?

A. 88 Central Park West, New York City.

Q. What is your business address?

A. 67 West 44th Street, New York City.

Max M. Zimmerman, for Respondent—Direct

Q. What is your business?

A. I am the editor and publisher of Super Market Merchandising, a trade publication in the food business.

Q. Mr. Zimmerman, at my request did you furnish me with a biographical sketch of your background?

A. I did, yes.

Mr. Baker: Your Honor, we are offering this man as an expert in the super market distribution field, and I have here prepared a biographical sketch. It might save time if we gave counsel a copy and submitted one for the record, for insertion in the record.

Hearing Examiner Hier: Copy this in the record at (615) this point, Mr. Reporter, as the witness' qualifications and background.

(The biographical sketch referred to follows:)

Biographical

M. M. Zimmerman, Editor and Publisher of Super Market Merchandising, and founder and honorary life member of Super Market Institute, is a graduate of Yale University—Class of 1911. In 1914, as a member of the Editorial Staff of Printers' Ink, Mr. Zimmerman made the first exhaustive analysis of chain store distribution which resulted in a series of fourteen articles in Printers' Ink. In these articles, the first offered to the food world on the growth of this new system of retail distribution, Mr. Zimmerman charted his idea of the future growth of the chain store.

Again in 1930, Mr. Zimmerman was commissioned by Printers' Ink to make another study of the chain store situation which resulted in twenty-five articles, bringing the chain store situation up to date. These studies were pub-

Mr. M. Zimmerman, for Respondent—Direct

lished in a volume, *The Challenge of Chain Store Distribution*, published in 1931 by Harper's.

In 1932, when the first Super Market in the East made its appearance, Mr. Zimmerman turned his attention to this new development and made the first study on the subject for *Printers' Ink*. The result appeared in a series of articles in *Printers' Ink* and were followed by a book called *Super Market—Spectacular* (616) *Exponent of Mass Distribution*, published in 1937.

Following the war, food distributors of Europe's reviving economy from Sweden, France, Holland, Belgium, Switzerland and Italy visited Mr. Zimmerman, asking him to assist them in outlining the possibility of applying the Super Market and self-service techniques of America to their new post-war development. To this end he visited these countries in 1947 and 1948 entirely on a voluntary basis and gave lectures and addressed conferences before gatherings such as the Economic Institute of the University of Stockholm, special groups of Swedish food distributors in Stockholm, the Centre d'Etudes du Commerce in Paris and other specially called meetings of food distributors in Holland, Belgium and Switzerland.

His lectures in England and on the Continent gave impetus to the holding of the first International Congress of Food Distribution, which was held in Paris, June 20-23, 1950. The French government, in recognition of Mr. Zimmerman's contribution towards the economic welfare of France and Europe in general, conferred upon him the medal—"Chevalier de Merite Commercial"—and Paris made him an honorary citizen.

On June 22-26, 1953, the 2nd International Congress of Food Distribution was held in Ostend, Belgium, and the King of Belgium, in recognition of Mr. Zimmerman's work towards the success of this Congress, conferred upon him

Max M. Zimmerman, for Respondent—Direct

the decoration of "Chevalier de l'Orde de la Couronne" (Knight of the Order of (617) the Crown).

On October 19, 1953, in recognition for the significant contribution made by Mr. Zimmerman to the advancement of distribution, the Boston Conference on Distribution elected him to the Hall of Fame in Distribution.

In April 1955, McGraw-Hill Book Company published Mr. Zimmerman's latest book, *The Super Market: A Revolution in Distribution*.

By Mr. Baker:

Q. Mr. Zimmerman, how would you define a super market?

A. Well, a super market is a highly departmentalized retail establishment dealing in foods and non-foods, with at least one of the departments on a self-service basis, furthermore doing a minimum of \$250,000.

I would like to qualify that by saying that that was the first definition we had in 1937.

Now, we have changed the volume definition to approximately \$500,000, although the average volume for the nation in the super market business is over \$900,000.

Hearing Examiner Hier: That is per unit?

The Witness: Per unit.

Hearing Examiner Hier: Per store?

The Witness: \$900,000 per store per annum.

(618) *By Mr. Baker:*

Q. Mr. Zimmerman, do you keep statistics in your organization and have you over the years, showing the

Mr. M. Zimmerman, for Respondent—Direct

percentage of food sales by super markets to total food sales?

A. Well, we started carrying statistics since 1936, when statistics first became available, and each year we have made a statistical analysis of the industry's activity.

Mr. Baker: Your Honor, I would like to have marked as Respondent's Exhibit 113 a table entitled "Per Cent of Food Sales By Super Markets To Total Food Sales 1936-1954."

(The document referred to was marked as Respondent's Exhibit 113 for identification.)

By Mr. Baker:

Q. Mr. Zimmerman, I show you Respondent's Exhibit 113 for identification, and ask you if you prepared that at my request?

A. Yes, I did.

Q. What are the bases for those figures?

A. Well, these figures represent—when you say what are the bases—

Q. What is the basis for those figures?

A. The basis is the over-all volume of the food industry and the percentage of volume done by the super market industry year by year.

Q. Those are the figures that you have kept over the years since 1936?

(619) A. Yes, they are a matter of record within our files.

Mr. Baker: I offer Respondent's Exhibit 113.

Mr. Mayer: I have the same objection we had to 104. I see no relevancy to this particular exhibit.

Max M. Zimmerman, for Respondent—Direct

Hearing Examiner Hier: I do not either, Mr. Baker.

Mr. Barton: If Your Honor please, on this matter of defenses which have been pleaded by Anheuser-Busch of meeting competition, changing market conditions, now the purport of this exhibit is that over a period of years there has been a transformation of the market in so far as the manner in which food items are being sold from the corner grocery store to a super market operation.

That transformation has had its effects in the problem of how items are priced in the stores in which they are sold, the corner store and the super market. Those are facts which management of a business, which wants to do business through that channel of distribution must take into consideration; and, if Your Honor pleases, I submit that each item in itself cannot be an explanation of the full story of the problem which the management of a company faces when it is dealing with a particular situation.

This is one facet of the problem, and this shows that over the years the super markets climbed from 6.3 per cent of the industry to 52.3.

I point out further that the evidence in this case (620) will establish, although it is not established at this time, through the witnesses who have gone on the stand so far, that in this same period from 1936 to 1954, there has been a tremendous shift of distribution of beer from the channel which distributed almost a hundred per cent of it in 1933 to another line, namely, the grocery store channel which is distributing a large portion of the beer today.

Hearing Examiner Hier: Well, that is conceded, is it not?

Mr. Barton: No. I think—

Mr. Mayer: I think Mr. Hallquist already testified to this, frankly.

Max M. Zimmerman, for Respondent—Direct

Mr. Barton: Well, if Your Honor please, the testimony of Mr. Hallquist was in general terms, and we do not think the record should be as general at this point on that very important issue which we are going to have the burden of proving in this case.

If Mr. Hallquist testified to it, Your Honor, I submit the whole subject has been opened up, so we can give the details on it.

Hearing Examiner Hier: Getting beyond that, there are two observations I would like to make. First of all, apparently you construe the term "changing market conditions" as used in the Robinson-Patman Act to mean over a period from 1936 to 1955 rather than a temporary price dip in a particular (621) locality, such as Staley made in Atlanta one time for three months because Hubinger cut the price on him down.

Apparently you are extending this term "changing market conditions" to several decades in construing it; is that right?

Mr. Barton: Your Honor, at this time I do not want to take a position as to what "changing market conditions" in the Robinson-Patman Act finally means. As we both know, that term is not the clearest term in the Act, in an Act which contains a number of terms that are not clear.

But my point is, and I think it is a stronger point on the meeting competition defense, that we cannot develop the full story on the meeting competition defense unless the basic facts are in the record, to show that there has been a dual shift taking place here over the years: First, a shift of the distribution of the beer from the on-premises tavern channel of sale to the off-premises, home consumption channel.

Max M. Zimmerman, for Respondent-Direct

Hearing Examiner Hier: Yes.

Mr. Barton: And that, secondly, simultaneously with that shift, which has been extremely pronounced over the years, but more pronounced in later years, there has been a shift of the sale for off-premises consumption from the taverns to the grocery stores, and because of this shift from distribution of grocery stores, from corner grocery stores, to super markets, it has been to the super market type of operation.

(622) Now, in the super market type of operation the price at which competing commodities are sold is an extremely important element in the selection of the goods which the customer will buy, and that has posed the problem for Anheuser-Busch and for the other national shipping beers which have been falling behind in this channel of distribution.

I do not see how we can put the story in unless we can get the various little pieces of the jigsaw puzzle that add up to the full story.

Hearing Examiner Hier: I agree with that latter story, but there is another observation, Mr. Barton. If you were charged here with selling beer to super markets and other food outlets at a considerably lower price, the same beer, the same can, the same pack, and you sell to taverns, I might see where there is a defense, I might go along with you. But that is not what you have done.

That might possibly—I'm not saying it would be—but that might possibly be an excuse for that lower price to the super market. But that is not what you have done here. You have dipped that price in St. Louis to everybody, in taverns—

Mr. M. Zimmerman, for Respondent—Direct

Mr. Barton: It had tremendously different effects in different channels of distribution, your Honor, as we are prepared to prove.

(623) Hearing Examiner Hier: That is an area-price discrimination, it is not a nation wide cut. I don't see where this is a defense.

Mr. Barton: It is our basic position, Your Honor, that this matter of an alleged area-price cut in St. Louis cannot be disassociated from the national picture in which Anheuser-Busch found itself in 1954; that the action taken in St. Louis was an integral part of the whole national picture, and I point out further to Your Honor, that in that connection the competitors of Anheuser-Busch in St. Louis, Falstaff, the principal one, was a competitor of Anheuser-Busch in the bread basket of Anheuser-Busch's distribution area, in other words, the great Midwest.

Falstaff, doing business in only 33 per cent of the country, is ranked, as has been brought in previous evidence, has grown from a position of eighth to third, and is continually growing.

I submit to Your Honor that in developing the picture of what happened in St. Louis, we cannot be restrained in showing to showing only St. Louis. We have to show the national picture that faced Anheuser-Busch to show, to put the St. Louis picture, in its proper perspective.

Hearing Examiner Hier: Are you going to attempt, Mr. Barton, in this case, to break the sound barrier, so to speak, that was set up by the Staley Case and by various cases (624) since then, of which Niehoff is one?

Max M. Zimmerman, for Respondent—Direct

Mr. Barton: If Your Honor pleases, the meeting competition defense has not been, so far as I know, decided in an area price case to date.

Hearing Examiner Hier: No.

Mr. Barton: Now, in connection with decision of what the meeting competition defense means in an area price case, I submit to Your Honor that the record should be permitted to develop all of the possibly relevant facts so that a decision can be made on all of the possible facets of the problem.

If we were to—the Staley Case, as Your Honor knows, was not an area price case and, consequently, if we would limit ourselves to putting in evidence of the type that would have been relevant in the Staley case, there is going to be no possibility of a record that will permit Your Honor to intelligently decide this issue of meeting competition, if you get to that issue in the final decision in the case.

Hearing Examiner Hier: Are you telling me, in effect—you have not said so plainly—but are you telling me in effect that one reason, one, if not the only reason, for the dropping of the price in St. Louis in 1954 was to find out whether a price cut could get them into the super markets in sufficient volume to justify the effort?

Mr. Ingamells: Your Honor, before we answer that, may I speak to Mr. Barton?

(625) Hearing Examiner Hier: Sure, get together.

(Discussion off the record.)

Mr. Barton: If Your Honor please, if I understand the question, it was, was one of the reasons for the St. Louis price reduction to see what would happen in sales through the off-premises super market area by reduction

Mar. M. Zimmerman, for Respondent—Direct

in price? The answer to that question is unqualifiedly, yes, and I submit to Your Honor that the evidence in this case is going to disclose that there was something done about the information that was obtained as a result of that price reduction. In other words, there has been adopted a program for a national basis to meet the problem of the price problem in this, what is becoming the dominant channel of distribution.

Now, it has not been through reducing the price of Budweiser nationally, it has been done by two means, as will come out in further evidence. We cannot, as you can see, put in our whole picture at the same time.

Hearing Examiner Hier: No, I know that.

Mr. Barton: But in general, it is going to come out, there have been adopted new packages of a size which will permit the sale of Budweiser at prices competitive to these—to Falstaff, to Hannans—to other regionals, who are cutting into the Anheuser-Busch business and, secondly, there has been put out a new and different beer which is sold at the same price as the regional beers.

(626) Now, those programs have been placed in effect as the sequel to the St. Louis situation.

Now, I submit to Your Honor that I do not want my remarks to be construed to mean that that was the only consideration. Obviously a strong consideration was that Anheuser-Busch had dropped, and it had dropped precipitously in sales, that St. Louis was an obvious place in which to get some additional volume and get it quickly, to keep the sales up, and that was a very important consideration.

But, as Your Honor knows, business men rarely do an act for one reason, and one reason alone. It is a

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variety of considerations which dictate any individual action.

Hearing Examiner Hier: Mr. Mayer, does the government recognize this testing the market matter as a defense in this case?

Mr. Mayer: No, sir.

Hearing Director Hier: In spite of the opinion in the General Foods Case, you deny it to be a defense?

Mr. Mayer: Yes, sir.

Hearing Examiner Hier: Well, frankly, I do not know whether it is or not; I never have heard it before.

Mr. Mayer: That is the only time it has ever been published, mentioned in published decisions.

Mr. Barton: Your Honor, I submit what has been mentioned in the context made with reference to General Foods, (627) is a part of the meeting competition defense. I do not think it relates to the changing market defense. I think it is part of the defense of meeting competition, as here, Anheuser-Busch was lowering its price to the price of Falstaff, who was one of the dominant and growing competitors of Anheuser-Busch.

Hearing Examiner Hier: Frankly, I do not know—

Mr. Barton: The problem of meeting for a short period, as General Foods, the same price of an important and dominant competitor seems to me to fit into the meeting—as a part of the meeting competition defense; at least that is going to be our argument, Your Honor, and I think it is an open question as of now in a decision of the Federal Trade Commission because, after all, that was not the basis for decision in the General Foods case by the majority in the case.

Mr. M. Zimmerman, for Respondent--Direct

Hearing Examiner Hier: If it had not been for that, Mr. Mayer, I would not take any evidence. I do not know whether it is a defense or not. I do not know where Commissioner Mead got that expression from. But there was no dissent on the part of the majority in the General Foods Case to Commissioner Mead's use of that term in the posture in which it was used, so apparently, as I said before, we are plowing new ground here. We do not have any precedent to go by.

I still do not see where this is meeting competition. To (628) me it probably is relevant on testing the market idea. I do not think it is relevant on the other at the moment, but it is probably relevant on that basis. I just do not know.

At any rate, that will be the ruling. You can put it in for that purpose, and that being the case, the record may show that the Respondent's Exhibits 101 through 113 are admitted to the record, subject to a motion to strike at the close of the Respondent's defense. Maybe we can thrash it out on a full record.

Mr. Barton: That is right.

(The papers referred to, heretofore marked for identification Respondent's Exhibits 101 through 113, were received in evidence.)

Re Mr. Baker:

Q. Mr. Zimmerman, have you made any survey as to the number of new super markets which will be added next year?

A. Yes. We just published one in our December, 1955 issue.

Max M. Zimmerman, for Respondent—Direct

Q. What does it show?

A. It shows that the super market industry will spend up to \$800,000,000 on buildings and equipment, and will build anywhere between 2,700 and 3,000 new super market units.

Q. In 1956?

A. In 1956.

Q. Mr. Zimmerman, from your own personal knowledge, what do you know with respect to the efforts of Anheuser-Busch in (629) selling to grocery stores?

A. Well, I have followed the activities of Anheuser-Busch since 1939, and I even recall that it was some time before spring that Mr. Garner, Bob Garner, who was a witness here, came to see me with a plan and a program to put on what we call a related sale of foods and beverages with the idea of getting the retailer or the super market interested in promoting the sale of Budweiser and, at the same time, helping the retailer sell more of his profitable related items.

Q. Were there any other brewers that you know of that went into this promotion of beer sales for food items?

Mr. Mayer: Objection. I do not see the relevance of that question.

Mr. Baker: I have not finished the question yet.

Hearing Examiner Hier: Let him finish. I thought you were through.

Mr. Baker: Prior to Anheuser-Busch?

Mr. Mayer: I have an objection to the question. I do not see the relevancy of the activities of the other brewers.

Max M. Zimmerman, for Respondent—Direct

Mr. Baker: I will withdraw the question since we have already stipulated.

Hearing Examiner Hier: That saves me ruling on it.

By Mr. Baker:

Q. Mr. Zimmerman, what, in your opinion, has been the (630) principal consumer appeal of super markets?

A. Well, from the very beginning price has been the dominant appeal. As a matter of fact, you go back to August 1930 when Michael Cullen opened up the first super market in Long Island, and heralded himself as King Cullen, the world's greatest price wrecker; and his ammunition was unheard of and unprecedented low prices which attracted the consumers from a wide area; and another illustrative case of how important price is was when Big Bear opened up in Elizabeth, New Jersey, in 1932, and heralded itself as Big Bear, The Price-Crusher; people came from distances of a hundred miles, as was later checked from their license plates, to shop in those markets.

Price has been a dominant factor through the entire development of the super market industry, which today is responsible for over fifty per cent of the business, and the consumers are offered all sorts of advantages such as modern buildings, all kinds of services. But price is the factor that determines the success or failure of a super market company, big or little.

Q. Does that, in your opinion, continue until today?

A. Well, if we know anything about consumers over the years, I think price will continue as far as a woman goes to shop, whether it is for food or other merchandise. Price is the dominating factor, but I might qualify it by

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saying that there are consumers who are willing to pay for service, and they (631) will pay a premium for such service, such as telephone, charge delivery, and there are only a percentage of these consumers in America who are willing to pay that price for this service.

Q. From your experience and background would you say that women are even more price-conscious in shopping in saper markets than men are?

A. Well, yes. I think so from observations and from the statements of super market operators themselves. They recognize the male customer as a darned good customer because he is looking for the things that he loves, and he isn't so price conscious, and that is one of the reasons why so many women will not take their husbands along because they buy too darned much.

Q. Mr. Zimmerman, in the history of super market development, do you know of any product, purchases of which were greatly stimulated through the super market because a woman could purchase that product there without embarrassment, perhaps, of requesting it of a retail clerk?

A. Well, yes; one product stands out very, very specifically. Let me refresh you, it is the tissues, you know, sanitary napkins.

Well, we know that even in the days when the sale of sanitary napkins was confined almost exclusively to the drug store, the average consumer, especially the very sensitive one, she was very reluctant about asking for a package of (632) sanitary napkins.

The sanitary napkin manufacturers suddenly discovered the super market as a tremendous outlet for this product because it was sight and touch, and many of them

Mac M. Zimmerman, for Respondent—Cross

in the early period used to take the package of sanitary napkins and wrap it up in ordinary paper, that is, in the kraft paper, and so Mrs. Consumer could pick it up very readily and put it in her shopping cart and nobody knew anything about it.

I could give you another example, too. You take in the, well, you take in the stores where they have self-service liquor departments. The merchant has handy there paper bags, and Mrs. Consumer, who would hesitate to openly buy a bottle of liquor, puts it into that handy bag, wraps it around, puts it in her cart, and she feels perfectly at ease.

Mr. Baker: That is all.

Cross Examination by Mr. Mayer:

Q. Mr. Zimmerman, in the same line, did you ever see a case of beer wrapped up in the super market?

A. No, but I have seen them in multiple-unit cartons.

Q. But clearly displaying the name of the beer on the side or the fact that the contents were beer?

A. Well, no, because is considered a food, and they advertise it as a food, that is, the brewers themselves have done a good job in bringing—in trying to distinguish between (633) liquor and beer.

Beer is recognized as a food, and there is no compunction as far as I know about the average consumer in even taking a couple of bottles of beer in her hand and going around the store with them.

Q. Now, sir, in that figure of \$800,000,000, is that reported to you under any compulsion by the various super market chains that that amount of building is to be done next year? How do you arrive at that figure?

Max M. Zimmerman, for Respondent—Cross

A. No compulsion.

Well, I can—I have in my pocket here—I didn't bring it along for evidence—but here are the tear sheets from our December issue in which we publish this whole survey.

Let me tell you how we do it. We have a super market merchandising research panel. This panel functions for us and for the members of the panel. An operator, he wants a question answered. He has a problem, and he sends in the question to us, and we send it out to our panel, which numbers about 450 stores, 450 operations, from a single unit to a multiple unit operation.

We get in these answers and then we tabulate them and arrive at some conclusion, and then we pass it back to our panel members.

Because we have been so helpful to the industry as a whole, we get a type of information which is usually not (634) available to the rank and file of trade publications. You see—and to substantiate that ever more effectively—you see, we founded or rather we pioneered the super market industry. In 1936 I happened to write the first, you might say, thesis on the future of the super market, and started my publication, which acted as the vehicle to disseminate the information for the industry, and at a time when they had no leadership, we gave it to them in the form of enthusiasm, information, which we made available through our sources, and today we can get this kind of information.

For example, we send out a questionnaire, and we ask them how many super markets "did you build this year? How many markets are you going to build next year? What will be the size of the market?"

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We go down and we ask them a lot of questions, and we get a very good return, and from that we can evaluate what the industry as a whole will do, and we arrive at these conclusions, and so far over the years they have been accepted with authority.

Q. In your exhibit, Mr. Zimmerman, 113 per cent of food sales by super markets to total food sales, included in those sales, I take it then, are beer sales; is that correct, sir?

A. That is the over-all volume; that is the over-all volume.

Q. Now, is beer sold in all the super markets that report (635) their sales?

A. In those super markets where it is permissible by law.

Q. Do you have any figures with you on the numbers of super markets that handle beer?

A. No, I am sorry; I didn't take it with me.

Mr. Mayer: That is all we have.

Hearing Examiner Hier: Mr. Zimmerman—

The Witness: Yes, sir.

Hearing Examiner Hier: (Continuing)—is it your opinion that if Miller, Pabst, Schlitz, Blatz, and Budweiser sold at the same price in the super markets as the local beers or as beers which are selling for less, that they would out-sell the local beers?

The Witness: No, I don't think so; I don't think so.

Hearing Examiner Hier: Would the increase in sales make up for the lack of revenue which results from a price reduction?

The Witness: Well, I mean you have got to go just one step back. You take a local beer, and it will spend

Max M. Zimmerman, for Respondent—Cross

more money advertising-wise in that market than a beer like Budweiser, which advertises nationally.

Hearing Examiner Hier: I understand.

The Witness: Therefore, they can win greater consumer acceptance in that specific area.

(636) Hearing Examiner Hier: And that would remain even though the price were cut?

The Witness: Well—

Hearing Examiner Hier: That advantage would remain?

(637) The Witness: Now, of course, you take the national beers like Budweiser, I think they have built up a prestige for their brand which even the local beer, with all its intensive advertising, does not ever acquire.

Even in the City of New York where you have got these highly popular local brands, a beer like Budweiser, Schlitz, Pabst, you will find, was more preferred in some, in certain, classes of homes where they recognize the quality and in some cases they are even willing to pay for that better quality.

Hearing Examiner Hier: Then it is your opinion that that prestige or good will or whatever you want to call it does overcome the advertising advantage which, the concentrated advertising advantages that, the local beer has?

The Witness: To an extent. If it did, why then, a beer like Budweiser would do much bigger volume income, let us say, in the City of New York.

Hearing Examiner Hier: I am still trying to get clear, do you think and, as an expert on merchandising, if Budweiser reduced its price to the local beer in selling in any

Max M. Zimmerman, for Respondent—Cross

given market through super markets, that its volume would increase to the point where it would be—

The Witness: I am of the opinion and, as a matter of fact, I am of the belief, that if a beer like Budweiser could meet the price competition of the other local beers, that I think it could at least equal, if not increase, its share of the (638) business in that market.

Hearing Examiner Hier: Yes. But that is not the point only. In case it shared the business, yes, but could it increase the share of the business to the extent that it would be profitable?

The Witness: Profitable?

Hearing Examiner Hier: Yes.

The Witness: Well, I am not a broker, I don't know.

Hearing Examiner Hier: I understand.

The Witness: I don't know their costs, but I imagine that—you know, I imagine that if they could probably increase their distribution 10, 15 or 25 per cent, let us say, I think they could reduce—they could sell their beer at a much lower cost because it is—we are in the era of mass production, and in mass production and in mass distribution the profit comes from turnover.

Hearing Examiner Hier: Yes, fast turnover.

The Witness: Fast turnover.

Let me give you an illustration of what happened in cigarettes. You know, for years the super market was a very poor customer for the cigarette manufacturer, and the super market carried cigarettes more as an accommodation for its customers.

About seven or eight years ago we made a study and we found that cigarettes are profitable, that despite the fact that (639) they carried only a 5 per cent gross

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margin, the turnover was so great that they could make more money on cigarettes than they could on some of their higher margin profit items, and that was heralded not only to the super market industry but to the tobacco manufacturers, and today the super market is one of the biggest sellers of cigarettes because they make—they know they make a profit on it, and that applies to any item, whether it is beer, cigarettes or candy.

Hearing Examiner Hier: Pardon me, go ahead.

The Witness: If the beer people can get a higher turnover on their product, for example, if a store only sells today one case of beer a week, but if it could sell ten or 15 or 20 cases a week, that brewer should be able to sell that customer at a lower price and still make money.

Hearing Examiner Hier: Your gross margin, the super market's gross margin profit on the so-called national brands which I previously named is greater than on the local brands, is it not?

The Witness: No, not necessarily.

Hearing Examiner Hier: Any further questions? I guess that is all, Mr. Zimmerman. Thank you very much.

The Witness: Thank you.

(Witness excused.)

(Discussion off the record.)

Hearing Examiner Hier: All right, 9:00 o'clock in (640) the morning.

(Whereupon, at 11:35 a.m., the hearing was adjourned to reconvene at 9:00 a.m., Wednesday, December 14, 1955.)

William J. Shine, for Respondent—Direct

(641) Wednesday, December 14, 1955.

Met, pursuant to recess, at 9:00 a.m.

Before: Frank Hier, Hearing Examiner

Appearances as before

(642) PROCEEDINGS

Hearing Examiner Hier: Go ahead.

Mr. Barton: If Your Honor please, I call Mr. William J. Shine to the stand.

WILLIAM J. SHINE was thereupon called as a witness for the Respondent and, having been first duly sworn, testified as follows:

Direct Examination:

Hearing Examiner Hier: Spell your name for the reporter.

The Witness: William J. Shine, S-h-i-n-e.

By Mr. Barton:

Q. Where do you reside, Mr. Shine?

A. No. 8 Wickersham Lane, Clayton, Missouri.

Q. By whom are you employed?

A. By Anheuser-Busch, Inc.

Q. What is your position with Anheuser-Busch?

A. At the present time my position is direttore of marketing and pricing.

Q. How long have you held that position?

A. For about the last six months.

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Q. What was your position with Anheuser-Busch, if any, prior to that time?

A. I was director of sales research.

(643) Q. How long did you hold that position?

A. As long as I had been with Anheuser-Busch, since September of 1951.

Q. By whom were you employed prior to September, 1951?

A. I was with Fletcher D. Richards, Inc., an advertising agency in New York City.

Q. What was the nature of your employment with the Fletcher D. Richards agency?

A. I was director of merchandising and research.

Q. What did that involve?

A. The organization and direction of all field research studies that we would conduct either for our own information at the agency or for our clients. It would involve all internal research, such as copy testing. It would involve the evaluation of all outside research studies that were presented, either to the agency or to the clients. It would involve the development of merchandising plans.

Q. It would have to do with market testing, matters of that kind?

A. Market testing, copy testing, setting up of test markets, and so forth.

Q. In general, what has been your experience in the merchandising and research field prior to 1951, apart from this experience with the Richards agency?

A. For seven years previous to my connection with Fletcher (644) Richards, I was with the New York agency of Pedlar and Ryan as director of research, performing much the same function as I performed at

William J. Shine, for Respondent—Direct

Fletcher Richards, but, of course, for a different group of clients.

For two years before that I was with—out of commercial business entirely—I was with the Office of Price Administration here in Washington.

Q. Where did you receive your formal training?

A. At St. Xavier College in Cincinnati, Ohio.

Q. What was your experience when you were at the Office of Price Administration?

A. I was with OPA from May of 1942 to April of 1944.

Q. What were you doing prior to the time you were with the OPA in 1942?

A. Well, for three years immediately before that I was with the Ross Federal Research Corporation in New York City, a private commercial marketing research organization that conducts all sorts and types of field research studies for magazines, newspapers, radio stations, manufacturers of various and sundry kinds of products, advertising agencies, and so forth.

Immediately preceding that I was in the newspaper business in Columbus, Ohio, in charge of department store advertising and research and promotion.

Q. Now, in connection with your duties with Anheuser-Busch (645) since 1951, will you please detail the scope of your duties.

A. Well, from an administrative standpoint, it involves the operation of a department of some twenty people. In this department we keep all of the permanent records of the company in so far as volume is concerned, as distinguished from the accounting records.

We keep the records of all of the sales that are made by our wholesalers and as they report them to us, we

William J. Shine, for Respondent—Direct

keep the records of all the competitive sales that are made.

We keep records on industry sales, and then over and beyond this physical record-keeping, it is our primary assignment to analyze these records and these reports to make recommendations to sales management and the general management as these analyses might indicate.

Q. Now, in connection with the duties with Anheuser-Busch, have you conducted special surveys from time to time?

A. Yes, sir; we have conducted a number of special surveys from time to time.

Q. What has been the general nature of such surveys?

A. Well, we have made surveys among our own wholesalers to find their distribution of sales. We have made surveys through outside agencies, such outside agencies, as the A. C. Nielson and Company, and we have made many smaller surveys, such as an individual problem or individual market might dictate the need for such a survey.

(646) Q. What associations, if any, are you a member of in the merchandising or marketing field?

A. I have been a member of the American Marketing Association for the last fifteen years.

(A document was marked Respondent's Exhibit 114 for identification.)

By Mr. Barton:

Q. I show you an exhibit marked RX-114, and ask you what it is.

William J. Shine, for Respondent—Direct

(Respondent's Exhibit 14-A was received in evidence.)

By Mr. Barton:

Q. I show you Exhibit RX-14-A, Mr. Shine, and ask you what it is.

A. It is a record of the Anheuser-Busch package beer sales to retailers by months for the year 1952 through October of 1955.

Q. What is the significance of a record—is this a record, by the way, which is kept by you in the normal course?

A. Yes, sir.

Q. What is the significance of this record which is kept with respect to sales by wholesalers to retailers?

A. As a producer of beer, Anheuser-Busch sells its products to a group of wholesalers throughout the United States. Therefore, any record of our sales of Anheuser-Busch sales, to those wholesalers, would not be a true and correct indication of the immediate trade acceptance or trade movement of that (665) beer.

You have what is known as the normal distribution lag. It might be a month or it might be two months from the time that we sell beer to a wholesaler before the wholesaler sells it to the retail trade.

Therefore, for years we have had our wholesalers report to us each month on what they sell to retailers. Now, that information, tabulated on a month-to-month basis, is a close approximation of what the actual consumer purchases will be, because our wholesalers supply the retail trade in some cases two or three times a week, once a week, to the taverns and to the large grocery stores, and such, and since those taverns and grocery stores do never

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carry a big inventory, that is, they would never carry a month or two months' inventory on hand, this record of retail sales would be an indication of the approximate sales to consumers.

Therefore, on a month-to-month basis a record of this kind of sales to retailers is, for our management, the most direct and comparative kind of information we can give them. They can compare November 1955 with November 1954, with November 1953 and know exactly what the movement, comparative movement, of merchandise has been.

Q. Mr. Shine, on the basis of RX-14-A, when did the sales drop which Anheuser-Busch experienced in 1950 occur?

A. It started in November of 1953 when the November 1953 (666) sales were approximately 220,000 cases less than they were in November 1952.

In December 1953 they were 265,000 less; in January 1954 they were 460,000 cases less, and it continued right along like that through the succeeding months of 1954.

Q. What is the fact with respect to whether or not the decline in sales as compared to the prior year became more pronounced as Anheuser-Busch moved into the relatively heavier sales season of the summer of 1954?

A. Well, that is very true, that this decline increased in May. If you will note, in May of 1954, sales are more than a million cases under May of 1953; in June, more than a million and a half; in July, almost two million cases—yes, almost two million, a little over two million cases less than July, 1953.

Q. Mr. Shine, what was the relationship of industry sales 1954 as compared to 1953?

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A. Well, industry sales were moving in a totally different pattern and direction. I don't attempt to memorize those figures. I have industry, I carry industry sales in my pocket; I can refer to them, but it wasn't like the Anheuser-Busch.

Q. For example, what was the position of industry 1954 as compared with industry 1953 in June, that is, the first six months of 1954?

A. For the first six months of 1954 the industry was down (667) eight-tenth of one per cent, and Anheuser-Busch for the first six months of 1954 was probably down seven or seven and a half per cent.

Q. And where did industry 1954 finally end up as compared to industry 1953?

A. Industry in 1954 would be three per cent below 1953.

Q. Where did Anheuser-Busch end up 1954?

A. Thirteen per cent below.

Q. Thirteen per cent off?

A. Thirteen per cent off.

Mr. Barton: I offer, Your Honor, 14-A in evidence.

Hearing Examiner Hier: You have no objection?

Admitted.

(Respondent's Exhibit 118 was marked for identification.)

By Mr. Barton:

Q. I show you RX-118, Mr. Shine, and ask you what it is.

A. It is a print of a page from Modern Brewery Age.

Q. For what date? Is that May, 1955?

A. I think this is the May, 1955, issue; yes, sir.

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Q. What is the table which is shown at the bottom of that page?

A. At the bottom of the page is the production and sales of Missouri breweries, 1954 with 1953. It shows that Falstaff was the only brewery to have a plus for the year 1954 over 1953. (668) It shows that all of the other St. Louis breweries, Anheuser-Busch, Griesedieck Brothers, and so forth to have losses from any place from about 13 per cent to 20 per cent.

Q. Well, as a matter of fact, the St. Louis breweries are between 17 and 20 per cent, are they? The others, who had 12, 13—

A. Yes, sir. This 13 per cent I see here is actually Goetz Brewery, which is not a St. Louis brewery.

Q. Where is Goetz located?

A. Goetz is located either in St. Joseph or Kansas City; I think St. Joseph, Missouri.

Mr. Barton: I offer RX-118 in evidence, Your Honor.

Mr. Mayer: May I inquire for a moment?

Hearing Examiner Hier: Yes.

Mr. Mayer: Mr. Shine, was there any other explanation in the Missouri—in this particular issue of Modern Brewery Age concerning the situation with the Missouri breweries?

The Witness: Any other explanation?

Mr. Mayer: Any other figures or statistics regarding it?

The Witness: In this issue?

Mr. Mayer: Yes, sir.

The Witness: Not that I know of.

Mr. Mayer: We have no objection.

Hearing Examiner Hier: Admitted.

William J. Shine, for Respondent—Direct

(669) (The document referred to, heretofore marked Respondent's Exhibit 118 for identification, was received in evidence.)

(Respondent's Exhibit 119-A through D was marked for identification.)

By Mr. Barton:

Q. Mr. Shine, I show you RX-118-A through D and ask you what it is.

A. This is a record of advertising expenditures for newspaper space, outdoor space, radio time and television time for the St. Louis breweries by months for the years 1953 and 1954.

Q. How was it prepared and by whom?

A. This was prepared at our request by the D'Arcy Company, our advertising agency. They, in turn, contacted the individual newspapers, the individual outdoor plants, the radio stations and television stations to get the specific information.

Q. Now, I note from RX-119 that in 1953 Anheuser-Busch's advertising expenditures were less than one-fourth of Falstaff and less than one-third of the other two competitive St. Louis beers. What is the explanation, in your opinion, if any, for this disparity in advertising expenditures between Anheuser-Busch and its St. Louis competitors in 1953?

A. I think the simple explanation is that a relative measure of sales—advertising expenditures, as a general rule, are in relation to sales, and when Anheuser-Busch's expenditures (670) are considerably less than its competitors' expenditures, it is a natural assumption and conclusion that their sales were less than their competitors' sales.

William J. Shine, for Respondent—Direct

Q. What was the general relation in 1953 of Anheuser-Busch and its competitors, so far as advertising and so far as sales are concerned?

Mr. Mayer: Mr. Examiner, I hate to interrupt here, but I think he is asking questions which are clearly answerable by figures in this exhibit. He is merely asking the question—

Hearing Examiner Hier: Read that question back.

(The question was read back.)

Mr. Barton: If your Honor please, the sales figures are not on here, and this is preliminary to another question, which is a line I wanted to go into.

Hearing Examiner Hier: I think the objection is well taken so far as advertising is concerned. It shows that, but it does not show it so far as sales go. Since it is coupled, I think he should answer. You may answer.

The Witness: Well, in a quick summary, the other St. Louis brewers did about six times as much volume, that is, sales volume, as Anheuser-Busch, and these figures here will show that the other brewers did about eleven times as much advertising as Anheuser-Busch.

By Mr. Barton:

Q. Now, from a commercial standpoint and from your viewpoint in (671) the marketing field, how does a company determine their advertising expenditures in relation to sales?

A. There are two general ways they do it. One would be in relation to their past sales record. The other would be in relation to their forecasted or prospective future sales. In either event, whether a company was going to

William J. Shine, for Respondent—Direct

develop its 1956, let us say, advertising expenditures on the basis of their 1955 sales or on the basis of what they hoped and expected and planned and budgeted their 1956 advertising sales to be, they would do it either on one of two bases; either a fixed percentage of sales, in other words, they would have a company policy that they would spend X per cent of their sales revenue for advertising, or another method would be they would project their sales or consider their historical sales in terms of a unit, like so many cases, or so many barrels, and fix their advertising expenditure at so many dollars and cents per barrel, or so many dollars and cents per case, and project their advertising budget on that basis.

Q. Is that always the case of a fixed relationship either to the past or the projected sales?

A. No, you can't say it is always the case. It is in general, it is the method that is used.

Hearing Examiner Hier: That is really maintenance advertising, is it not? Sales maintenance advertising, as distinguished from new business advertising?

(672) The Witness: You might call it that, and that, I think, leads directly into the answer I was going to give, that many companies, from time to time, will find themselves in a position where they decide that in a particular market or in a particular year, or for a particular reason, they are going to spend far more than their normal percentage of sales, far more than their normal amount per unit, and they will regard it as investment spending.

Hearing Examiner Hier: That is the increased sales market, put on the pressure, put on the heat?

The Witness: Yes, sir.

William J. Shine, for Respondent—Direct

By Mr. Barton:

Q. When such investment advertising or investment is made, what in general, would be the relationship between advertising and expected sales over the period, or over the long run?

A. Over the long run you would expect to eventually come out to the same figure. Your investment spending might be five times, or ten times, the amount of your normal expenditures in the particular investment period. You would expect to get increased sales as a result of that investment spending, possibly over a longer period of time it would wash out or level out to approximately what has been your normal basis.

Hearing Examiner Hier: Have you got any reliable information, statistics, or what not, which would indicate the effectiveness of advertising in persuading beer-drinkers to (673) switch competitive brands to yours, as distinguished from advertising which is beamed toward the non-drinker or the relatively new drinker? I am just wondering how effective beer advertising is.

The Witness: May I ask, Your Honor, if you are limiting it just to advertising appeals?

Hearing Examiner Hier: Yes.

The Witness: I don't think I could give you a single precise, concrete example of a case where advertising alone has had such a result in any appreciable or, let's say, commercially valuable extent.

Sure, I could point out isolated cases and cases where there has been a temporary gain of 1 or 2 percentage points, but nothing major.

Hearing Examiner Hier: Off the record.

William J. Shine, for Respondent—Direct

(Discussion off the record.)

Hearing Examiner Hier: Back on the record.

By Mr. Barton:

Q. Mr. Shine, I note from RX-119 that in 1954 Anheuser-Busch increased its advertising expenditures in St. Louis to approximately those of Falstaff Brewing Corporation.

Would you explain the commercial considerations from a marketing point of view which made that increase of advertising expenditures a sound move?

A. We'll, that increase in advertising expenditures had one (674) primary purpose and that was to get an increased volume of business, and an increased share of business, and it was hoped that by so doing that it would get it.

Hearing Examiner Hier: I wonder if you can tell me how much of this expense, this \$500,000, is attributable to the widespread announcement of your drop in prices? There are a couple of full-page ads already in this record which set your firm back some money. I am wondering how much that \$500,000 was primarily the announcement that you had dropped your price?

The Witness: Your Honor, I cannot give you an exact, or even an approximate figure on that. I am sure that our advertising director would be able to give you such detailed figures. However, I think I can say in a general area that the specific newspaper advertisements on the drop of prices represented a relatively small part of the total.

Hearing Examiner Hier: Go on.

William J. Shine, for Respondent—Direct

By Mr. Barton:

Q. Mr. Shine, would it, in your opinion, have been commercially feasible to have increased advertising to the extent it was between 1953 and 1954 if there had not been a simultaneous price reduction in St. Louis and the increase in other selling activities?

A. No, sir; I do not think so.

Hearing Examiner Hier: Where does that leave us? I (675) get the implication in that question that the advertising, the increase in the advertising, was brought about by the price reduction. Is that so? I don't want to draw a false inference here.

The Witness: Your Honor, I don't think it would be correct to say that it was brought about by the price reduction. I think that to some extent, the two things went hand in hand, but I don't think one brought about the other.

Hearing Examiner Hier: Would you have done it, done the advertising, if you had not dropped the price, let us put it that way, the increased amount of advertising?

The Witness: No, sir.

Hearing Examiner Hier: All right, go on.

By Mr. Barton:

Q. Now, you are aware, Mr. Shine, of the sales increase that Anheuser-Busch had after it reduced the price in St. Louis in June of 1954?

A. Yes, sir.

Q. Would that increase in sales that Anheuser-Busch obtained, have been obtained, in your opinion, had not Anheuser-Busch increased its advertising expenditures

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along with the price decrease, so as to approximately equal the Falstaff advertising expenditures in that period? In other words, suppose there had been a reduction in price only and no increase in advertising expenditures to approximately the level of the local (676) competition?

A. No, sir; I do not think it is reasonable to assume that there could have been comparable results.

Q. What is the basis for that opinion?

A. Well, there have been many other markets in which we have from time to time done some of this investment spending of advertising, where we have spent more than a normal amount, and we have not had long-term substantial increases in our sales.

Q. I think you misunderstood my question, Mr. Shine.

My first question is to the point would a similar sales result be obtained by merely a price reduction if there had not been an increased advertising expenditure which was made in 1954 as compared to 1953?

A. No, sir; I do not think there would have been because there were many other factors along with the reduction in price, and the amount of advertising, all which have to tie into one package.

Q. Yes.

Now, if there had been merely an increase in the advertising expenditures to match the Falstaff and other advertising expenditures, would there have been that similar increase in St. Louis sales?

A. No, sir. If we had reduced our prices to the prices of Falstaff and the other local competitors, if we had increased (677) our advertising expenditures to the level of Falstaff and the other popular priced brewers in St.

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Louis, there is no indication that we would have been able to attain a sales level that other brewers have reached in St. Louis.

Q. Well, in other words, the experience indicates that merely increasing advertising expenditures would not obtain the sales results that were obtained in St. Louis?

A. That is correct.

Hearing Examiner Hier: Are you through, Mr. Barton, on that point?

Mr. Barton: Pardon?

Hearing Examiner Hier: Are you through on that particular point?

By Mr. Barton:

Q. What specific example would you cite in connection with this point that the mere increase in advertising expenditures would not create the sales results?

A. Well, I can cite several examples where Anheuser-Busch has used increased advertising and has not obtained any concrete, long range appreciable result in sales.

For example, within the last couple of years, I remember a campaign that we ran in Massachusetts. It did not have any long-range substantial effects on increasing our sales.

I can remember special campaigns that we ran in northeastern Ohio, using television out of Cleveland, and so forth, (678) that had no substantial long-range sales increases.

I can remember campaigns that we have run in Texas, campaigns that we have run in Los Angeles, and so forth,

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and they did not produce long-range appreciable sales increases.

Mr. Barton: Your Honor, I offer RH-119-A through D.

Mr. Mayer: Mr. Shine, did you prepare this exhibit?

The Witness: Did I?

Mr. Barton: I think he has testified as to the manner in which it was prepared.

Mr. Mayer: Are you familiar with any of the figures, the basic information appearing on this exhibit?

The Witness: Familiar with the figures?

Mr. Mayer: Yes.

The Witness: Yes, sir.

Mr. Mayer: What does the \$2,205 in December television advertising, network and non-network advertising (Anheuser-Busch) in 1953 mean?

The Witness: It means that that is the amount of money that was spent for television station time.

Mr. Mayer: Do you have those figures in your books and records?

The Witness: Do I have them in my books and records? No, sir.

Hearing Examiner Hier: That is not the question. (679) Does the Respondent have them?

The Witness: Yes, sir.

Hearing Examiner Hier: You have a canceled voucher, I presume, for the payment?

The Witness: Yes, sir.

Mr. Mayer: We have no objection.

Hearing Examiner Hier: Very well, 119 may be admitted.

William J. Shine, for Respondent—Direct

(The document referred to, heretofore marked Respondent's Exhibit 119-A through D for identification, was received in evidence.)

Hearing Examiner Hier: We will take a short recess.
(A short recess was taken.)

Hearing Examiner Hier: All right; you may go ahead.

It appears from the transcript, daily transcript, that there is some question about the admission in this record of several exhibits. In order to clear that up, let the record show that Respondent's Exhibits 60, 61, 85 and 93-A and B were received in evidence.

(The documents referred to, heretofore marked Respondent's Exhibits 60, 61, 85 and 93-A and B for identification, were received in evidence.)

Hearing Examiner Hier: And to clear it up further, the record may show that Respondent's Exhibits from 53 through (680) 119-A through D, as identified in the record, have all been received in the record, with the exception of 94 and 95, which exhibits were withdrawn by Counsel offering them.

(Respondent's Exhibit 120-A through S was marked for identification.)

By Mr. Barton:

Q. Mr. Shine, I show you RX 120-A through S and ask you what it is.

A. It is a record of advertising expenditures by Anheuser-Busch and various other brewers in a selected

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A. That is a record of Budweiser sales and their share of the market in St. Louis and St. Louis County in the year 1955 by months through October of 1955.

We show on this the number of statistical cases that have been sold, the share of the total package beer market that they represent and the percentage of change from the previous year.

Mr. Barton: Your Honor, I offer in evidence RX-114.

Mr. Mayer: No objection.

Hearing Examiner Hier: Admitted.

(The document referred to, heretofore marked for identification Respondent's Exhibit 114, was received in evidence.)

(A document was marked Respondent's Exhibits 115-A through -D for identification.)

(647) *By Mr. Barton:*

Q. I show you Exhibits RX-115-A through -D, and ask you what they are.

A. This is a record of the package beer sales of Pabst beer in St. Louis and St. Louis County by months from 1945 through September of 1955, showing for each month the number of statistical cases sold and the percentage of the total package beer sold in the area.

Mr. Barton: Your Honor, I offer in evidence RX-115-A through -D.

Mr. Mayer: May I inquire with respect to one question?

Where did you get the figures appearing on this exhibit, Mr. Shine?

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The Witness: These figures are obtained from reports that are issued each month by the Missouri Brewers Association.

Hearing Examiner Hier: Is that a public set of statistics? I mean, all I am inquiring about is whether he has a source to which he can go?

The Witness: Your Honor, I think they would be regarded as a public source. It is a subscription service. You pay for a private organization which publishes the figures, but they are also published on a free basis by one of the newspapers in St. Louis.

Mr. Mayer: These figures would be the ones that (648) appear in the Post-Dispatch, wouldn't they?

The Witness: Yes, sir.

Mr. Mayer: Do they come out of the Reporting Service at Jefferson City?

The Witness: The Post-Dispatch, so far as I know, buys the Reporting Service from Jefferson City, and then puts it out in a slightly different form.

Hearing Examiner Hier: At any rate, you have a means of checking.

Mr. Mayer: Yes, sir. We have no objection.

Hearing Examiner Hier: All right, 115-A through -D is admitted in evidence.

(The documents referred to, heretofore marked for identification Respondent's Exhibits 115-A through -D, were received in evidence.)

By Mr. Barton:

Q. Mr. Shine, did Pabst reduce the price of Pabst in St. Louis in June, 1954 equivalent to the price of Falstaff and the other St. Louis beers?

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A. Yes, sir.

Hearing Examiner Hier: That was \$2.25.

Mr. Barton: Pardon? That is on a 24 twelve-ounce returnable bottle, yes.

By Mr. Barton:

Q. And that price reduction of Pabst was at about the same (649) time as the reduction of Budweiser; the price of Falstaff, was it not?

(650) A. It was at about the same time. I would say it was within a day or two of the same date.

Q. And according to RX-115, what were the sales results of that price reduction by Pabst?

Mr. Mayer: I think the exhibit will speak for itself. Mr. Examiner. It will save—

Mr. Barton: If Your Honor please, I think in order to tell a story intelligently we have to lay the basis for a further series of questions.

Hearing Examiner Hier: Well, if it is a preliminary question he may answer it, even though it is on the exhibit.

The Witness: There was a slight gain in share of the market, and there was a slight gain in the total number of cases that they sold.

By Mr. Barton:

Q. For example, what was their share of the market before the price reduction in 1954?

A. May of 1954 they had 1.4; June they had 1.9; July they had 3 per cent.

Q. Now, Mr. Shine, is Pabst a so-called national shipping brewer?

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A. Yes, sir.

Q. And are they what is sometimes referred to in the trade as a premium beer or premium priced beer?

A. Yes, sir.

(651) Q. Prior to their price reduction in St. Louis in 1954 had their prices, had the price of Pabst, been above the price of Falstaff and the other St. Louis brewers, apart from Anheuser-Busch for some period of time?

A. Yes, sir.

Hearing Examiner Hier: I think, Mr. Barton, this is a good place to put in those prices.

What was the price of Pabst for the 24-bottle case, 12-ounce bottle case, on January 1, 1954; do you know?

The Witness: It was approximately \$3.

Hearing Examiner Hier: Yours was \$2.93, if I remember?

The Witness: Ours was in that neighborhood, yes, sir; Pabst was a few pennies higher than Budweiser.

Hearing Examiner Hier: When you reduced to \$2.68—on when was it, March—

The Witness: No, sir; January.

Hearing Examiner Hier: January?

Mr. Barton: January 4.

Hearing Examiner Hier: All right.

What was the price of Pabst then?

The Witness: They went down the same amount that we went down.

Hearing Examiner Hier: And in June they went down—

The Witness: They went down to the price of the local brands.

(652) Hearing Examiner Hier: In other words, they followed you?

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The Witness: Yes, sir.

Hearing Examiner Hier: All right.

The Witness: They followed us, I think, in all cases probably by a matter of a day or two.

By Mr. Barton:

Q. Mr. Shine, to what do you attribute the relatively slight increase in the sales of Pabst during 1954 as compared to the increase which Anheuser-Busch obtained when the Budweiser price was lowered?

A. In my opinion it was due to the fact that Pabst had a much smaller base to start from, they had much less acceptance in the market, or much lower standing in the market.

Hearing Examiner Hier: What do you mean by "standing?" Do you mean advertising?

The Witness: Sales standing, their sales standing, their general market acceptance.

Hearing Examiner Hier: Consumer acceptance?

The Witness: Consumer acceptance.

Hearing Examiner Hier: Go on.

By Mr. Barton:

Q. Now, what does that indicate to you with respect to the possibility of the effects of a Budweiser reduction in another market besides St. Louis?

(653) A. It indicates rather clearly that if Budweiser had attempted a price reduction in some other market where they had a small share of the market like Pabst has here, where they had a small volume in the market, where they had relatively little consumer acceptance, that

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the results would have been comparable. There isn't any reason in the world to assume that if Budweiser was operating from a similar base position as Pabst had in St. Louis, that they would have any different results; and the Budweiser position in many markets is comparable to the Pabst position in St. Louis.

Hearing Examiner Hier: What are some of those markets? Milwaukee, of course, let us forget that; some other markets besides Milwaukee.

The Witness: Well, New York.

Hearing Examiner Hier: New York? Pabst outsells Budweiser in New York?

The Witness: No, sir; I didn't mean that. I meant that the share of the market that Budweiser has in New York is approximately equal to the amount that Pabst has in St. Louis; Budweiser's share of the market in New York is probably two or three per cent. It is a very low percentage share of the market, and that was true for Budweiser in practically every major market in the country where there are substantial popular priced breweries in operation.

Hearing Examiner Hier: Is there a market, to your (654) knowledge, where Budweiser and Pabst both have one and a half per cent, or whatever it was?

The Witness: There probably are a number of such markets. Offhand, to name individual markets, I do not know, but there probably are a number of them where the relative sales of Budweiser and Pabst are very similar. When you say markets, I am referring to individual cities. Yes, there probably are a number.

Hearing Examiner Hier: Go on.

William J. Shine, for Respondent—Direct

By Mr. Barton:

Q. I show you RX 116 A through -Z 13, and ask you what it is.

(The documents referred to were marked Respondent Exhibit Nos. 116-A through -Z 13, for identification.)

The Witness: This is a record of package beer sales by brands and by breweries for all of the individual sellers into St. Louis and St. Louis County other than those brands that have been included on a previous exhibit that has been submitted.

Mr. Barton: That is Exhibit RX-18, Your Honor.

The Witness: This covers the period from 1938 through 1955.

Mr. Barton: I offer Exhibits RX-116-A through -Z-13 in evidence.

Mr. Mayer: Is the source of the figures on this exhibit the same source as the other exhibit, Mr. Shine?

(655) The Witness: Yes, sir.

Mr. Mayer: We have no objection.

Hearing Examiner Hier: Admitted.

(The documents referred to, heretofore marked as Respondent Exhibit Nos. 116-A through -Z-13, previously marked for identification, were received in evidence.)

By Mr. Barton:

Q. I show you RX-117 and ask you what it is.

(The document referred to was marked Respondent Exhibit No. 117, for identification.)

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The Witness: Well, this is a projection of sales of Griesedieck-Western, Falstaff, Griesedieck Brothers, and Anheuser-Busch in St. Louis and St. Louis County, and a record of the actual sales of those four brands in St. Louis and St. Louis County by months, beginning in January, 1952, and extending through August, 1955.

By Mr. Barton:

Q. Now, you say it is a projection of sales. What part of the chart represents a projection of sales?

A. Beginning in the left-hand side of the chart you will see for each brand a solid line running through the years 1952 and 1953. That was the base from which the projections were made.

From 1954 and 1955 you will see a dashed line continuing from that solid line. Those dashed lines are the projections from the solid lines.

(656) The broken lines that run along each one of the straight lines are the actual month-to-month sales.

Q. I note on Exhibit RX-117 that the trend of the sales for Griesedieck Brothers, for example, has been projected for 1954-1955, as represented by the broken line which continues the straight line referring to that product, and I ask you, based upon the solid line which runs from 1952, for 1952 and 1953, and I ask you whether, in your judgment, a projection based upon such trend line for the months of 1952 and 1953 is a sound statistical method?

A. Yes, sir; it is a sound method because this projection is not a projection of the years 1952 and 1953; it is a projection of the 24 successive months of 1952 and 1953. So our base for our projection is what had been going on in 24 successive months, not what had been going on

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in two successive years; and you will notice that as a result of these projections that in each and every case the actual situation as of August, 1955 for each one of those brands is very close to the projected line for that brand, and those actual lines had been very close to those projected lines for four or five months.

Hearing Examiner Hier: Now, this projection indicated by the broken lines is what would normally, in your opinion, have been expected to happen if these price gyrations for nine months or a year in 1954 and 1955 had not taken place?

The Witness: Yes, in general. But I would like to (657) qualify that just a little bit to say that the projections are not my opinions; the projections are actual mathematical projections. I haven't just taken the lines—

Hearing Examiner Hier: I know.

The Witness (continuing): —for 1952 and 1953 and extended them some way on the basis of an opinion. They are mathematical projections.

Hearing Examiner Hier: But I mean an individual looking at this without the explanation you have just given would get the impression that these broken lines should have been bent considerably in one direction or another, because of the dips and rises in the actual sales.

The Witness: In 1954.

Hearing Examiner Hier: Yes, that is right.

The Witness: Yes, sir.

Hearing Examiner Hier: They are projections of the trend in 1952 and 1953 carried out.

The Witness: In 1952—if the month-to-month conditions through 1952 and 1953 had continued under similar conditions, the dotted line would have resulted.

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Hearing Examiner Hier: I see.

By Mr. Barton:

Q. Would you explain further the basis upon which the projection of a month-to-month tendency in 1952 and 1953 was extended for the period 1954 and 1955.

(658) A. The mathematical basis on which the projection was made was the generally accepted statistical method known as the least squares method of projections, a commonly accepted statistical method for making projections on a satisfactory base, the least squares method.

Q. Now, in the case of Griesedieck Brothers and the projection that appears on RX-117, are there any other considerations known to you which support the validity of the projection for 1954 and 1955 as shown in RX-117?

(659) A. Well, I think that the known graph of Griesedieck Brothers sales outside of St. Louis and St. Louis County, I think that the known trend of Griesedieck Brothers draught beer sales in St. Louis and St. Louis County, which are generally similar to the actual Griesedieck Brothers' line here for package beer in St. Louis and St. Louis County, would lend support to the statistical projections.

Q. In other words, there was no change in the prices outside St. Louis and St. Louis County on the beers competitive with Griesedieck Brothers beer and Griesedieck Brothers' sales outside St. Louis declined to the same extent or similarly—

A. To approximately the same extent, and certainly in the same general direction; and, to the best of my knowledge, there was no change in prices of Griesedieck

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Brothers beer outside of St. Louis during the period of 1954 and 1955.

Q. So far as you know there was no change in the price of competitive beers, beers competitive to Griesedieck Brothers, outside of St. Louis?

A. No, sir; not during the years 1954 and 1955.

Hearing Examiner Hier: Mr. Shine, can you answer the same question with reference to your own beer?

The Witness: In 19—

Hearing Examiner Hier: Yes; in other words, does the increasing trend, gradual but nevertheless persistent, in 1952 and 1953 in St. Louis County represent approximately or roughly (660) the trend nationally?

The Witness: Yes, sir.

Hearing Examiner Hier: It does?

The Witness: Yes, sir.

Mr. Mayer: May I have that question and answer read, sir?

Hearing Examiner Hier: Read it back, Mr. Reporter. (The question and answer were read.)

Hearing Examiner Hier: Do you have enough statistical information in your files to say whether or not the other two beers represented here, Falstaff and Griesedieck-Western, show national trends closely similar and closely approximate to the trends depicted on this Exhibit 117 for the year 1952 and 1953?

The Witness: Well, Your Honor, without referring back to the actual statistics, I am inclined to think that the Falstaff line on here might be a little lower than their national trend.

In other words, I believe that the Falstaff national gain may have been a little sharper, a little higher.

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Hearing Examiner Hier: More precipitous?

The Witness: Than the gain shown on this particular chart. I am inclined to think that the Griesedieck-Western line would generally approximate their condition.

Hearing Examiner Hier: All right.

(661) The Witness: I might add this, that I am very certain that so far as general direction is concerned, they are correct. There might be a slight difference up or down in slope but in general direction they are correct.

Hearing Examiner Hier: Is there in the record, Mr. Barton, a comparable graph for national beer sales?

Mr. Barton: You mean of each—of the industry?

Hearing Examiner Hier: Of the industry.

Mr. Barton: Yes.

Hearing Examiner Hier: In other words, a certain part of this upward slope in the case where there is an upward slope may be attributable to increased beer consumption?

Mr. Barton: The figures are actually in the record on total beer—

Hearing Examiner Hier: Well, if the figures are in the record, a graph can be constructed, of course.

Mr. Barton: Mr. Shine, what is the fact with regard to national beer consumption in the last—well, let us take it right after the war and continue it up to date—what is the general picture on that subject?

A. The peak year of the brewing industry was 1947. In that year some 87 million barrels of beer constituted the total industry withdrawals, tax-paid withdrawals. That is the highest year that the brewing industry has ever had. Every year since then has been under that 87 million barrels.

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(662) Now, it has not been under it very far. It has been in the neighborhood of 85, 84, 82, it has been coming up a little bit for the last couple of years. The latest figures that we have for the industry for the year 1955 run through August, I believe, and as of that time the industry is a little bit ahead of last year again. There is a possibility that the industry sales for 1955 will be equal to or very close to, maybe a little bit over, a little bit under, the 1947 peak; but looking at a graph line of it, Your Honor, from 1947 to the present time, it would be almost a straight line.

Hearing Examiner Hier: Almost a level line?

The Witness: Almost a level line.

Hearing Examiner Hier: Go on.

Mr. Barton: Your Honor, I offer in evidence RX-117.

Mr. Mayer: No objection.

Hearing Examiner Hier: Admitted.

(The document referred to, heretofore marked for identification Respondents' Exhibit 117, was received in evidence and was marked Respondents' Exhibit 14-A.)

Mr. Barton: Your Honor, in the initial hearing in this case an exhibit, RX-14, was offered and received.

The actual exhibit that was marked and received in evidence was different from the exhibit which Respondent thought was being offered and received, and also which, I believe, Commission counsel thought was being offered and received.

(663) We have here marked as 14-A the exhibit which we thought we were offering, and intended to offer, except as it has been brought down to date.

William J. Shine, for Respondent—Direct

Now, I would like to offer this—to withdraw the exhibit which is marked 14 in the record—and re-offer this RX-14-A in its place.

Hearing Examiner Hier: Have you had a chance to compare that?

Mr. Mayer: Have I had a chance to compare it? No, sir.

Hearing Examiner Hier: All right, let us spend a few minutes while you do it.

(A short recess was taken.)

Mr. Mayer: Rather than substitute, why don't we put in another exhibit. It contains less information than Respondent's Exhibit 14 carries; isn't that so?

Hearing Examiner Hier: The main question is, is the present exhibit in the record, 14, either inaccurate, incomplete or misleading?

Mr. Mayer: It is neither. It does not portray the information which I think Mr. Barton thought it portrayed when it was offered and received.

Mr. Barton: Which we thought, both of us thought, was being included. What happened was that page one instead of page two was actually placed in the record out in St. Louis.

(664) However, if there is any objection, I will simply offer this as Exhibit 14-A, and attach it, put it in the record at that point.

Hearing Examiner Hier: All right. You have no objection to that, have you, Mr. Mayer?

Mr. Mayer: No, sir.

Hearing Examiner Hier: All right. Exhibit 14-A will be received.

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list of cities by newspaper, outdoor, radio, television and total for the years 1953 and 1954.

(681) Q. Who selected the cities for which this advertising survey was to be made?

A. I did.

Q. On what basis were the cities selected?

A. Well, they were selected to be important cities, cities in which there were located important competitive breweries or if they were large cities and had no competitive brewery, just because—I think it could be summarized by saying they were important major marketing centers.

Q. What did you do with the list of these cities after you made it up?

A. I turned it over to our advertising agency, D'Arcy & Company and asked them to assemble the information. They assembled that information by writing to the newspapers, writing to the outdoor plants, writing to the radio stations, writing to the television stations in the various cities and asking them for the information on expenditures.

Q. Does Exhibit 120 through 120-S contain all of the cities which you selected?

A. Yes, sir.

Q. I noticed that on several pages, for example on 120D, there are notations that either some television stations did not report, or that some radio stations did not report.

A. Yes, sir. Whenever an advertising agency seeks to get this kind of information and writes to the various media involved, (682) there will always be some of them who say that they do not regard this as public information and they will hesitate, and frequently refuse, to give the information.

William J. Shine, for Respondent—Direct

There isn't any way in the world you can force them to give it, at least no way I know of that can force them to give it to you.

Q. In that situation, what was done in connection with the preparation of this Exhibit?

A. You couldn't do anything about it. It would have been ridiculous to estimate what those figures might have been so there just—that part of the report is left blank. There is no provision made for it.

The net result is that the advertising expenditure figures that are reported on here for all brands, other than Anheuser-Busch, are understated by the amount of the information that we did not get. Now, the Anheuser-Busch figures are from our actual record. We know that is exactly what we spent.

In the case of the competitive breweries, some of them are slightly under-stated and some were grossly under-stated.

Q. Depending upon how many stations did not report, what advertising was done?

A. Did not report, and how much money was involved in that expenditure on that non-reporting station.

Mr. Barton: Your Honor, I offer Exhibit 120-A through S in evidence and I would call attention to the fact that (683) RX-120-S contains the sources and methods used in the preparation of the Exhibit.

Mr. Mayer: Mr. Examiner, it seems to me that in the Exhibit as he is offering it now, it is completely outside the scope of the complaint or any defense to the complaint. These are expenditures in areas which are not covered specifically by the price discrimination in the St. Louis

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area and I wonder what the purpose of this particular offer is.

Mr. Barton: If your Honor please, there are several facets of the case to which the Exhibit goes. You will recall that yesterday there was some testimony in connection with Anheuser-Busch's Budweiser competition in any particular market area, the amount of advertising done by the local or regional dominant seller in that area, was an important factor in that competition.

It goes, your Honor, to the question of the public acceptance of Budweiser in any particular market because, obviously, the amount of advertising which is done by Budweiser as compared with its competitors in that market is a very important factor.

The Examiner: However, it is not as reliable an indication as the actual sales on the market, of course.

Mr. Barton: Well, the advertising, of course, is a part of that sales picture. There is some equivalent between (684) advertising and sales. The fact that a brand can advertise heavily in the market is an indication of its sales position in that market, and that perpetuates its sales position in that market by virtue of its advertising.

Examiner Hier: How is that a defense to this? Supposing these local beers do out-advertise you in various cities around the country?

Mr. Barton: The allegations of this complaint say that, in effect, we are unable to sell in St. Louis at competitive prices because we have a public acceptance outside of St. Louis, and they compare Washington, D. C., for example.

Examiner Hier: He means you make enough money, you acquire a big enough bankroll from high prices outside of St. Louis to withstand the loss of the profits resulting

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from a severe dip in prices in St. Louis. That is what he claims.

Mr. Barton: I don't mean that your Honor, but I mean that in order to put in the picture, the competitive picture, the industry, the situation with which Anheuser-Busch is faced and was faced in the year 1954 on a national basis, which is part of the picture with respect to the St. Louis picture, we have to put in those facts on a national picture.

In other words, we cannot put in the picture as to why we met Falstaff competition in St. Louis without putting in the picture in a much wider area.

Moreover, your Honor, in connection with the Motion to (685) dismiss, you will recall the question was raised by your Honor, why St. Louis, why not some place else?

Now, your Honor, this goes directly to that issue of why not some place else, and there are many other facts that we are going to seek to put in the record today that go with that same issue, and I don't simply think we can adequately brief and argue the point which your Honor has indicated has an important issue in the case, and without having in these facts even though they be with respect to markets, outside of St. Louis.

Examiner Hier: Well, I agree with Mr. Mayer to this extent: I don't simply think this is relevant to the major defenses you have set up, except, this testing of the market defense, whatever that may be, or however it may develop.

Mr. Barton: Well, if your Honor pleases I would like to point out that this testing of the market is an integral part of the meeting competition defense. I submit to your Honor that we don't simply have to, as an initial matter, undertake to meet competition every place. We can

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pick out the area in which we can meet. We want to meet competition, which will, in our opinion, give us the most information and do us the most overall—give us the most overall sales.

Examiner Hier: Off the record.

(Off the record discussion.)

Examiner Hier: On the record,

(686) I agree with Mr. Mayer that this does not have, in my opinion, at the present stage of this case, at any rate, much probative value with reference to the meeting competition issue in this case in the factual posture that this case now presents, but it does, in my opinion, have some relevancy with reference to this testing of the market and, particularly, on the question of why the St. Louis market was picked to be tested.

I don't simply see much other point in the Exhibit, so I am going to over-rule the objection and admit it for what it is worth. I have some doubt about its weight, but that does not go to its admissibility.

Mr. Reporter, 120-A-S is admitted in evidence.

(The documents referred to, heretofore marked Exhibits 120-A through 120-S were received in evidence.)

(The document referred to was marked Exhibit 121 for identification.)

Mr. Barton: Mr. Shine, I show you our Exhibit 121, and ask what it is?

A. It is a listing of Anheuser-Busch sales, beer sales, in the State of Texas, considering the totals here for the years 1946 through 1954, showing the actual volume that we had on the percent state totals that volume represented.

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Mr. Barton: Your Honor, I offer in evidence our Exhibit 121.

(687) Hearing Examiner Hier: Why Texas?

Mr. Barton: If your Honor pleases, it is the problem we always have of one Exhibit telling one story. I have a series of Exhibits here on Texas and Falstaff and the fact is that while Anheuser-Busch has been going down from 9.5 to 5.5 of the Texas beer market, Falstaff has been gaining regularly and consistently.

Hearing Examiner Hier: In Texas?

Mr. Barton: In Texas and elsewhere.

Hearing Examiner Hier: Well, elsewhere may be one thing.

Mr. Barton: And we are going to put in some more evidence, your Honor, on Texas and this is a preliminary Exhibit to that, to that line of Exhibits. I simply cannot put the whole thing in at one time.

Hearing Examiner Hier: Off the record.

(Off the record discussion.)

(688-689) Hearing Examiner Hier: Let us go back on the record.

Mr. Barton: I offer Exhibit 121 in evidence.

Mr. Mayer: I object on the basis of relevancy.

Hearing Examiner Hier: You are going to object and you may have a continuing objection to any evidence indicating loss, gain or anything else of sales of Anheuser-Busch beer in any particular area outside of St. Louis.

Mr. Mayer: That is right, yes, sir.

Hearing Examiner Hier: It is as to market conditions and what went on during 1953, 1953 and 1954, is that correct?

Mr. Mayer: That is correct.

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Hearing Examiner Hier: That will be a continuing objection.

Mr. Barton: In connection with that objection I would like to note one of the first exhibits introduced by Mr. Mayer was the total national sales of Anheuser-Busch from 1953, etc.

Hearing Examiner Hier: He is not objecting to national figures—he is objecting to particular area figures such as Texas or Alabama or something like that.

Mr. Barton: He introduced not only Anheuser-Busch sales but other competitive beer sales, and what our total national sales with the combination of individual markets was.

Hearing Examiner Hier: Let us not get into that (690) hassle. He put them in and I know why he put them in and so do you.

Mr. Mayer: Another point, I think these figures basically are already in in Respondent's Exhibit 3 in which they made an attempt to show their State by State sales.

Mr. Barton: But not for 1946 through 1954.

Mr. Mayer: Is he defending 1954 practices on the basis of 1946 sales?

Hearing Examiner Hier: Let us take up one thing at a time.

You say they are in here. If they are in, they are not going in.

Mr. Barton: They are not in.

Mr. Mayer: Not in the precise form but Budweiser statistics are in for this year.

Mr. Barton: 1952, 1953 and 1954.

Mr. Mayer: In by months and by State for 1953.

Hearing Examiner Hier: And 1954?

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Mr. Mayer: And 1954.

Hearing Examiner Hier: What is the point of putting this in?

Those States are in, aren't they. I am looking at 123 now, also 121. Wait a minute.

Mr. Barton: Let me put it this way: These exhibits, 121 obviously has other years than the years that are in on (691) the others. And 122 contains the competitive beers in Texas which are not broken down in Respondent's Exhibit 3.

And similarly, 123 contains the state by state figures for Falstaff which are not contained in Respondent's Exhibit 3.

Hearing Examiner Hier: All right, it is duplication to some extent.

Mr. Barton: To some extent.

Hearing Examiner Hier: But not full duplication.

Mr. Barton: I offer 121.

Hearing Examiner Hier: Over objection as stated, the continuing objection, it is in the record.

(The paper referred to, heretofore marked for identification Respondent's Exhibit 121, was received in evidence.)

By Mr. Barton:

Q. I show you Respondent's Exhibit 122 and ask you what it is, Mr. Shine.

A. It is a record of beer sales in Texas by years, beginning in the year 1946 for some brands, 1947 for all brands, going through the year 1954, showing the individual figures for about ten brands and for the total figures, the total industry figures.

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This exhibit shows, for example, that Budweiser in 1954 sold a little bit less than it did in 1946 in the State of (692) Texas, both in its actual barrelage and substantially less than its share of the market. It shows that the leading brand in 1954, Pearl, has more than doubled its sales since 1947. Falstaff has more than doubled its sales. Lone Star has about quadrupled its sales. JAX has quintupled its sales.

Considering those four brands together, Pearl, Falstaff, Lone Star and JAX, they had about one-third of the business in 1947 and they have two-thirds of the business in 1954. And the industry total has not doubled in that time.

Mr. Barton: I offer 122 in evidence.

Mr. Mayer: Same objection except I would like to ask another question if the Examiner please.

The purpose of this exhibit is to meet which one of these sellers competition, which one—appearing on Respondent's Exhibit 122.

Mr. Barton: The only one of the sellers who is a gainer in Texas, who is doing business in St. Louis is Falstaff.

Mr. Mayer: I think these figures appearing on 122 also—well, we will get to that later. I am sorry.

Hearing Examiner Hier: All right. Objection is overruled. 122 is admitted in evidence.

(The paper referred to, heretofore marked for identification Respondent's Exhibit 122, was received in evidence.)

William J. Shine, for Respondent—Direct

(693) *By Mr. Barton:*

Q. I show you, Mr. Shine, RX 123 and ask you what it is.

A. It is a list of sales of Budweiser and of Falstaff in ten individual State for which we have such information available, showing the sales in 1954, and in 1953, and the percentage of change from 1954 over 1953.

Q. Now, Mr. Shine, you said that these are for ten States for which such information is available. What did you mean by that?

A. We have to depend on the published information that we can get. There are about half of the States in the Union that provide some sort of information that enables us to get some relative kind of information on competitive brands. These are the only ten States for which such information is available where Budweiser and Falstaff are direct competitors.

Q. Mr. Shine, RX 122 indicates that over the year, since 1947, Anheuser-Busch has been losing ground in Texas compared to the four regional producers whom you named, who climbed from having a third of the market in 1947 to two thirds of the market in 1954, while Anheuser-Busch has dropped from in excess of 9.5 percent of that market in 1947 to roughly five percent in 1954. What if anything has Anheuser-Busch sought to do to arrest the development?

A. Well, Anheuser-Busch has done many, many things in the State of Texas and I would say that probably the outstanding (694) thing that has been done is a very special and rather large appropriation advertising campaign that was run in that State in the latter part of 1952 and the early part of 1953.

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Q. I show you Exhibit 124 and ask you what it is.

A. That is a record month by month from September 1952 through April 1953, showing by cities the amount of money that was spent in this special advertising campaign in Texas.

Q. What was the nature of that campaign?

A. Well, as I have indicated it was a very special Texas campaign, a Texas advertising agency by the name of Tracy Locke submitted the campaign idea to the Anheuser-Busch management. You might refer to it briefly as one of those of Texas, by Texas, for Texas ideas. The theme of the campaign was the best tasting beer in Texas. It was to be that localized. All the way through the campaign it was localized to Texas, prepared by Texas agency, written by Texas people. The theme, the illustrations, everything were localized in their character.

Q. Was \$150,000 spent in this campaign, part of the regular budget for advertising, in Texas?

A. No, sir. The \$154 thousand that was spent during this eight months was a very special appropriation and it was over and above the amount of money that was spent in Texas in proportion to Texas through our, you might say, regular and long-time advertising agency, R. C. D'Arcy Company. This was a special campaign.

(695) Q. What, if anything, was the result of that special Texas advertising campaign in September 1952 to April 1953?

Mr. Mayer: I submit the sales figures would show that on the exhibit which the witness is presenting.

Hearing Examiner Hier: You mean the resulting sales?

Mr. Mayer: Yes.

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Hearing Examiner Hier: The exhibit does not show that. You may answer.

The Witness: The result was a slight increase in sales for a short period of time.

Hearing Examiner Hier: What do you mean by slight?

The Witness: As I remember the increase in sales in Texas was something like one-half of one percent during the period of this campaign. And as soon as the campaign was over, the gain that we had disappeared, and if you will note in one of these other exhibits that we have already submitted, in the following year our decline was greater than it had been for several years preceding it.

Hearing Examiner Hier: Was this advertising directed towards switching drinkers or creating new drinkers, or did it have any particular slant?

The Witness: It was intended to sell Budweiser.

Hearing Examiner Hier: To anybody?

The Witness: To anybody.

(696) Mr. Barton: I offer in evidence Exhibits 123 and 124.

Hearing Examiner Hier: The same objection?

Mr. Mayer: Yes.

Hearing Examiner Hier: Those are overruled and the exhibits will be admitted in evidence.

(The papers referred to, heretofore marked Respondent's Exhibits 123 and 124 for identification, were received in evidence.)

By Mr. Barton:

Q. Mr. Shine, there has been testimony to the effect that Anheuser-Busch in the latter months of 1953, suffered a

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sales reverse as compared to prior months in that year and corresponding months in previous years in overall sales?

A. Yes, sir.

Q. That is correct, is it not?

A. Yes, sir.

Q. What, if anything, was done to attempt to arrest these deteriorations in the sales position of Anheuser-Busch?

A. Probably it would be an over simplified statement to say considerable consideration was given to every possible factor. I can remember specifically consideration given to increasing advertising, to changing the packages, to changing the prices, to changing the container size and dozens of other things.

(697) After all of these various considerations had been given some attention, there seemed to be a general well sort of consensus that the thing that we could do most quickly, most reasonably, was to make some changes in the containers and in the packages. The particular container sizes that got the most consideration at that time was the idea of a ten ounce container as against the prevailing 12 ounce size and the idea of a container that held one-fifth of a gallon as against the traditional quart.

The theory behind these container sizes was a rather simple one: That possibly a substantial number of people would be willing or would be anxious to buy Budweiser at a certain price, at the price of a popular priced beer, and would be willing to accept two ounces less of the Budweiser product at the same price.

And similarly, that people would be willing to accept a few ounces less of Budweiser in a fifth at the same price as they would a quart of another brand of beer.

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The problem of introducing a ten ounce package and a fifth package was restricted somewhat by the fact that you could not put it in on this price consideration in all markets.

I think it has been amply demonstrated here that there is no such thing as a traditional differential, traditional mark-up system and so forth, and there were many markets where the mark-up conditions and the traditional trade practices (698) were such that we could not introduce a ten ounce container of Budweiser and have it priced competitively with the 12 ounce container of the local popular priced beers.

So in those markets we did not attempt to introduce the ten ounce package. We attempted its introduction only in those areas where it would be competitive. Similarly, there were other markets where we could not price our quart, our fifth competitively with the popular priced quarts and we couldn't go into that market with that test package, with that new package.

Q. When was consideration first given to the possible new packages which would be competitive with the competing regional brands of beer in various markets?

A. Well, my recollection of the first time that they were being given any, let us say, deliberate consideration was in the latter part, in the fall of 1953. And I am sure that there are documents in the record that show early 1954, these packages were considered and actual action was taken on them.

Q. I show you RX 125.

Hearing Examiner Hier: Before you get to that, Mr. Shine, I make two deductions from what you said, and I want to see if they are valid in your opinion.

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These two ounces of beer represent the price differential between local beers and Budweiser.

The Witness: Does it?

(699) Hearing Examiner Hier: In each particular market that you are talking about.

The Witness: In some markets it does.

Hearing Examiner Hier: That is the market that you were thinking about introducing the ten ounce package into?

The Witness: Yes, sir, on the basis of the cost of the package which is not just on the two ounces of the beer.

Hearing Examiner Hier: Now then, did that two ounces less of beer enable you to maintain your net profit margin as it had been maintained in the past, or does it enable you to maintain a satisfactory net profit?

The Witness: On a percentage basis or on a per case basis?

Hearing Examiner Hier: Both, if you can give them to me.

The Witness: We could not maintain the same dollar profit on a case of ten ounce cans as we could on a case of 12 ounce cans. We could hope to maintain the same percentage profit on ten ounce cans that we could on 12 ounce cans.

Hearing Examiner Hier: That two ounces then really represents your gross profit, does it now?

The Witness: No, sir.

(700) Hearing Examiner Hier: I mean you can sell ten ounce cans of beer for the local price on 12 ounces.

The Witness: In some markets.

Hearing Examiner Hier: That is what I am talking about. I am talking about the selected markets.

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The Witness: Yes, sir.

Hearing Examiner Hier: And still maintain your percentage profit margin, so it seems to me that that represents the margin.

The Witness: But that ten ounce can is being sold in competition with the local popular priced brand and I can tell you that in our actual preparation of the price schedules and the price comparison along there, we could not maintain all of the usual and traditional pricing factors. Wholesalers took a smaller mark-up on a case of ten ounce cans than they did on a case of 12 ounce cans. Retailers took a smaller mark-up on a case of ten ounce cans than they did on a case of 12 ounce cans.

Hearing Examiner Hier: Were you in the room yesterday when Zimmerman testified?

The Witness: No, sir, I was not.

Hearing Examiner Hier: The only point in his testimony then that I call your attention to is that he said that beer, premium priced beer, does not move well in the supermarket, because nine-tenths of the shoppers in the supermarkets are women and they are extremely price conscious and they (701) dislike that extra nickel or eight cents, or whatever it may be, premium which they must pay for the nationally advertised brands and they will usually select the popular priced brands.

Among your calculations on this market test, I want to know if this is a fact, from what he said, price factor and the woman shopper affects it, that the size of the can may not. Did that enter in it?

The Witness: No, sir, because I will not sell the woman customer short on that. I think the actual woman

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customer is looking at the container she buys. I don't think you will fool any one of them or kid them.

Hearing Examiner Hier: I don't mean actual deception. I mean there would be less resistance to taking six ten ounce cans for the same price, that all other beer in that place is laid out there at that price mark, although they happen to be 12 ounce cans--there is less sales resistance.

The Witness: I think so.

Hearing Examiner Hier: That is what I would think. I wanted it confirmed.

The Witness: Yes.

Mr. Barton: I believe there was a pending question. I will repeat it.

By Mr. Barton:

Q. I show you RX 125 and ask you what it is.

(702) A. It is a memorandum from Mr. Barsi who was then the Vice President and Sales Manager of the Brewery Division, to me, asking me to make a survey on 11 ounce bottles in portions of Mr. Flanigan's region.

Q. Who is Mr. Flanigan?

A. Mr. Flanigan is a Vice President of Anheuser-Busch and he is the Sales Manager in the mountain and Pacific Region.

Q. Had the matter of the 11 ounce bottle which is referred to in 125 been discussed prior to the time Mr. Flanigan requested the St. Louis office to make this survey?

A. Yes, sir.

I can say that it had been discussed on more than one occasion, because the 11 ounce bottle was a particular

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competitive problem in Mr. Flanigan's region. One of the very large, very important regional competitors in the mountain and Pacific States is Coors. Coors have always marketed their beer in an 11 ounce bottle. It has always been a competitive problem in that region.

Q. And was the 11 ounce bottle introduced?

A. Yes, sir, we have an 11 ounce bottle in our line right now.

Mr. Barton: I offer 125.

Hearing Examiner Hier: Same objection. The objection is overruled. 125 is admitted in the record.

(The paper referred to, heretofore marked (703) Respondent's Exhibit 125, was received in evidence.)

Hearing Examiner Hier: 126 is in the same category, isn't it?

Mr. Barton: It is in the same category. It is telling the development of this story, Your Honor. I have preliminary questions, to offering 126.

Hearing Examiner Hier: All right.

By Mr. Barton:

Q. Was there any consideration given to any other size container at about the same time?

A. Yes, sir. Specifically, I remember consideration being given to an eight ounce bottle, and to an 11 ounce returnable bottle.

Q. And what is the purpose of considering these other type packages, the same general problem, in other words, visibility of having a package of Budweiser that would compete price wise with these important regional brands?

William J. Shim, for Respondent—Direct

A. Yes, sir. The only purpose of considering any of these new container sizes or package sizes was to meet a particular competitive situation.

Q. I show you RX 126 and ask you what it is.

A. This is a memorandum from Mr. Barsi to me, telling me to go ahead immediately with the selection of several test markets for the introduction of a ten ounce non-returnable bottle.

Q. That is dated?

(704) A. April 21, 1954.

Mr. Barton: I offer 126 in evidence.

Hearing Examiner Hier: The same objection?

Mr. Mayer: Yes.

Hearing Examiner Hier: The same ruling. 126 is admitted in the record.

(The paper referred to, heretofore marked Respondent's Exhibit 126 for identification, was received in evidence.)

By Mr. Barton:

Q. I show you 127A and B and ask you what they are.

A. This is a two page memorandum from Mr. Barsi to me, which is sort of official notice that certain new packages are now available, that the fifth, the ten ounce non-returnable bottle and the regular pack and the ten ounce returnable bottle in the four, 6-pack will be available at Newark Brewery and that the ten ounce can in a regular pack and an eight 6-pack will be available at the St. Louis Brewery.

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Q. I note that you are requested to check the testing of these packages in certain selected markets with each of the regional managers involved and Mr. Garner to decide on which market in which to test packages.

Who is Mr. Garner?

A. Mr. Garner at that time was the Manager of our Food Store Sales Department with particular concern and consideration to sales in off premise outlets.

(705) Q. Why were you asked to check this with Mr. Garner?

A. These particular packages, these fifths and ten ounce packages, both the bottles and the cans were intended to be primarily competitive packages in off-premise outlets, to be competitively priced in off-premise outlets. They were intended to go through the grocery stores and especially through the supermarkets where this price competition is very important and where, unfortunately, we had a very, very small percentage of our sales volume.

Q. And the fact is that the growing area for the sales volume of beer, isn't it?

A. Very substantially growing.

Mr. Barton: I offer 127A and B in evidence.

Hearing Examiner Hier: The same objection?

Mr. Mayer: Yes.

Hearing Examiner Hier: The same ruling. 127A and B admitted in evidence.

(The paper referred to, heretofore marked Respondent's Exhibit 127A and B for identification, were received in evidence.)

William J. Shaw, for Respondent—Direct

By Mr. Barton:

Q. What are some of the problems that are faced in connection with the introduction of new packages in the brewing industry?

A. There are two problems that are, I believe, particular (706) to the brewing industry. The first one is a problem of taxation. In addition to the Federal tax which exists on all malt beverages there are various State taxes. These State taxes have no uniform basis and no uniform rate. In some States the tax will be so many dollars per barrel and that tax rate will be pro-rated to any container size and package size that is marketed.

In other states the tax is per container of a certain size or smaller. Thus you have many States that specify that a tax of so many cents per case of 24, 12 ounce bottles or smaller size bottles.

That is a very definite hurdle in the introduction of a new package in those states that has such a penalty.

Now, the second thing that is peculiar to the beer business is a matter of the legality of packages. There are some States where the actual State statute that regulates the sale of malt beverages within that State specifies in the statute the size of containers that may be used.

For example, I recall that in both the State of Ohio and the State of Texas, the statute specifically says, you can use a 12 ounce bottle and would automatically rule out the use of a ten ounce bottle.

There are many other States in which the use or non-use of a certain package size is the privilege or the assigned responsibility of the State Alcoholic Control Board, Beverage (707) Control Board, and they can by administrative decision decide which container size and

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which package size may be used in that State, or may be sold in that State. And in a number of those instances, the ten ounce package has been ruled out.

So those two problems of taxation and legality of package size are the principal problems that face a brewery in introducing a new package and do not face any other kind of a manufacturer. They don't face the corn flakes manufacturer or anything of that kind.

In addition to those two specific problems, the brewer will have all of the production problems, the advertising problems, the warehousing problems, the sales and sales promotion problems that the producer of any other kind of a product would have.

The net result of it is that in the brewing industry it is going to take a considerably longer time to get new packages on the market than it would take for most any other consumer product.

Q. I show you RX 128 A and B and C, and ask you what they are.

A. Well, 128C is a map of the United States, on which we have designated approximately 20 major marketing centers and on which we have shown the freight costs for a case of 24 12 ounce returnable bottles of beer from St. Louis to those specific cities.

(708) Then 128 A and 128 B constitute a list of the breweries that are located in each one of those cities where there is a brewery, a few of them that have no breweries.

Q. What is the fact as to whether shipments are made from St. Louis, from the St. Louis Brewery of Anheuser-Busch to each of the points for which there is a freight rate on this map?

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A. That is correct. We ship Budweiser regularly from St. Louis to our wholesalers and or our branches in each one of the points shown in this map.

Q. This freight that is named, that is listed here, includes the freight out as well as the freight in on the bottles as well as the freight out, does it not?

A. This includes the freight from St. Louis to the indicated city for a case of 24, 12 ounce bottles filled with beer and the freight of 24, 12 ounce empties returned to St. Louis.

Q. And how does the can -- the price for shipment of the cans compare to the price for the shipment of bottles?

A. Well, to anyone of these cities, the cost of shipping a case of 24, 12 ounce cans would be slightly less than the cost of shipping 24 12 ounce bottles because the case of cans will weigh a little bit less than the case of bottles, and you have no return freight on the case of cans.

Mr. Barton: I offer in evidence RX128A thru C.

Mr. Mayer: Objection.

(709) Hearing Examiner Hier: For what purpose.

Mr. Barton: Via St. Louis.

Hearing Examiner Hier: That isn't the point. What are you trying to show with this map?

Mr. Barton: Trying to show that in order to compete with Falstaff in Texas, the freight rate from St. Louis to Houston, Texas, is 37 cents, and there is no freight rate from St. Louis to customers delivered in St. Louis out of the St. Louis Brewery.

Hearing Examiner Hier: You mean by Falstaff?

Mr. Barton: Well, Falstaff has a brewery in New Orleans. They are much closer to the market with which

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we are in competition with them in Texas than we are. In St. Louis we both have the same freight rate, zero.

Hearing Examiner Hier: What about Denver? You have got 39 cents. This map does not show what Falstaff has.

Mr. Barton: It has somewhat lesser rate because they have a shipment from Omaha. They have a brewery in Omaha. On this map the Omaha location of Falstaff is indicated.

In other words, Omaha is a point on the map, and the location of a Falstaff brewery at Omaha is indicated. It is quite true that we do not have the rate between New Orleans and Houston but —

By Mr. Barton:

(710) Q. Mr. Shine, as a matter of fact, do you know what the relationship of the rate for shipment from New Orleans to Houston would be as compared to the St. Louis-Houston rate?

A. In my judgment the rate, New Orleans to Houston on 24 twelve ounce bottles would probably be, right around 12 cents out and back.

Hearing Examiner Hier: I do not see what this has to do with this point. I let you put in the record Falstaff sales, that they have gone up consistently in Texas, Alabama and this, that and the other place. It does not make any difference why they have gone up, whether due to more advertising or more strategically located breweries or what it is. The cold hard fact is that they have gone up and you have gone down. Why enter into this record a lot of reasons why they may not have gone up.

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Mr. Barton: I don't follow the remark that it does not make any difference that they have gone up because they have acquired additional breweries. The fact is that Falstaff has been able to cut into a number of areas where Anheuser-Busch has been important by virtue of the acquisition of those breweries.

Hearing Examiner Hier: The important point is that they have cut in, not why they cut in. I don't see that it makes any difference. Supposing they have better salesmen.

Mr. Barton: It is our —

(711) Hearing Examiner Hier: You have been going down and they have been going up. I don't see any sense of going into all of these reasons why they have been going up and you have been going down.

The record is getting fairly voluminous.

Mr. Barton: You asked on the original motion to dismiss the question of why was this, taken in St. Louis, other than some place else. This is one answer as to why it was taken in St. Louis rather than some place else because the freight rate for a sale and deliver in St. Louis is zero, whereas the freight rate for deliver and sale in these other major marketing areas is a substantial amount. I think that in part supplies the answer to Your Honor's question of why in St. Louis.

Hearing Examiner Hier: I don't see it.

Mr. Barton: Here is the practical problem. Anheuser-Busch had the option, I think we agree, of meeting a competitive price of Falstaff in any of the area in which they did business.

In other words, they don't have to by virtue of meeting them in one place meet them every place.

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Hearing Examiner Hier: No.

Mr. Barton: If they have the option of meeting them in one place, and not at the same time every place, then the problem of picking the area in which they will meet them (712) involves these questions of what is the comparative costs of freight, etc. And this map illustrates in part the scope of that problem. And I submit it goes to the further question, Your Honor, that you posed as to what is the likelihood of this happening some place else.

Hearing Examiner Hier: Don't you have the same rate as Falstaff does in Miami?

Mr. Barton: As a matter of fact — all right, we will get the figures on Falstaff shipments.

Hearing Examiner Hier: Never mind. I am just asking if you don't have the same rate. I believe you do.

Mr. Barton: The fact is you are so far as Miami is concerned — in other words, water shipment from New Orleans to Florida is possible here. I don't know the facts as to what that particular cost is. I submit to Your Honor that the problem, the possibility of there being a competitive price reduction on Budweiser in Miami, is rendered slim by the fact instead of that 56 cent freight rate.

Hearing Examiner Hier: What other objections do you have, Mr. Mayer?

Mr. Mayer: I would like to ask one question.

Hearing Examiner Hier: Go ahead.

Mr. Mayer: Mr. Shine, in the color scheme on here, are the red figures the freight out and the blue figures the freight in?

(713) The Witness: No, sir, the red figures with the dot in the front of them represent the freight, the blue figures

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are merely the numbers which correspond to the numbers on the "A" and "B" parts of the exhibit.

Mr. Mayer: And the red figures contain both freight in and the freight out?

The Witness: Yes, sir. 24-12 ounce bottles always have the freight figured for both ways on the bottles.

Mr. Mayer: I have no further objection than already made. I'd like to point out to the examiner that I have been stretching my imagination here a little bit and I can't think of a single instance in the beer business anywhere in the United States that is not relevant to Mr. Barton's defense under his theory of meeting competition, absolutely nothing.

Mr. Barton: A competitive picture must be developed before the defense can be made, Your Honor.

Mr. Mayer: Under his theory he can well show in detail the competitive situation in Santa Cruz County, Arizona, in all its detail to defend himself for a price reduction in St. Louis, Missouri.

Hearing Examiner Hier: I told you I was going to dispose of this theoretical concept, at any rate, when you move to strike all of this evidence at the close—if you are going to—I suppose you are from the noise you are making—at the close of the Respondent's case.

(714) This motion must be taken up at the time you rest because the amount, the extent of any rebuttal will of necessity depend on whether it stays in or goes out of the record.

Mr. Barton: I understand that. I want to point out with respect to that statement by Mr. Mayer he has raised in its full form, the argument that Your Honor should take into consideration the potential involved here.

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In other words, the structure of the record is such that it is—I think the Government has to concede,—the Commission has to concede there is no substantial difference in the position of any one of the St. Louis competitors today from what it would have been back in January 1954.

Your Honor has pointed out, Mr. Mayer has argued it is the potential of this action that must be considered. I submit in developing the facts on that issue, as well as the meeting competition issue, we go into some rather broad field. And I think it is clearly within Your Honor's reference to the facts that are relevant here.

Hearing Examiner Hier: In other words, one thing you are trying to establish by all of this evidence is that what happened in St. Louis can't happen anywhere else?

Mr. Barton: It is not likely to happen.

Hearing Examiner Hier: It is not likely to happen. All right. The objections are overruled. Exhibits 128-A, 128-B and 128-C are admitted in the record.

(715) (The papers referred to, heretofore marked Respondent's Exhibit 128-A, B and C for identification, were received in evidence.)

By Mr. Barton:

Q. Based upon your study of the distribution of beer, what is the distribution pattern for the sale of beer to the ultimate consumer?

A. Well, the distribution pattern for the sale of beer to the ultimate consumer is really a two fold pattern. First is that part of the distribution scheme that is commonly referred to as on premise consumption where a consumer or a customer enters a place of business and

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buys a single unit, consumes that single unit right there on the premise where it was purchased.

The second phase of beer distribution and marketing is the off premise business where a consumer might buy one unit but more frequently they will buy six units or 12 units or 24 units in some sort of a carton or a case, carry them out of that premise to their own home or to somebody else's home, to a picnic or a place of that kind for consumption; that is known as off premise consumption.

There are those two broad patterns of distribution of the ultimate consumer in the beer business.

Q. In other words, on and off premise consumption?

A. Yes, on and off premise consumption.

(716) Q. What changes, if any, have taken place in the distribution pattern of beer since repeal in 1934 in connection with that problem?

A. There have been really tremendous changes which in net amount to a complete diametric reversal of the pattern in the 21 years since repeal.

In 1934, 75 percent of all of the beer sold and produced in the United States was draft beer. 99 percent of the draft beer that is consumed is consumed on the premises where it is sold. Therefore, when we had 75 percent of the beer as draft beer we had 75 percent of the consumption on premise.

In 1954, about 25 percent of the beer that was produced and sold was draft beer. That does not mean that only 25 percent of the beer was consumed on premise, because there will be some package beer consumed on premise also. It is not a very large amount but there is some and it is possible that in 1954 that 35 percent of the

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beer was consumed on premise, 65 percent consumed off premise.

So for practical purposes it is the diametric opposite of what it had been in 1934.

Q. What is the fact with respect to the change in the distribution pattern of the beer between 1934 and 1954 with respect to distribution through grocery stores?

A. Well, in 1934 there was little or no distribution of beer through grocery stores. In the first place, we know (717) that only 25 percent of the beer that was sold was packaged beer and that is all that could have been sold because they would not sell draft beer in a grocery store and only a very small part of that packaged beer was sold through grocery stores.

At the present time there are various estimates that range over a small period of differences but general agreement is that something over 50 percent of all of the packaged beer that is consumed in the home is bought in grocery stores.

Q. Now, I take it there have been various changes in the living habits of the American people that have accounted for these marketing changes. Will you name some of them?

A. There have been very substantial changes in habits. Just to name a few of them, the automobile has caused substantial changes, television has caused even more of them.

In recent years we have heard about this great return to home living instead of out of home living and home entertainment instead of out of home entertainment. You have the substantial shift of residence from metropolitan

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apartments to suburban ranch homes and so forth. All of these make a very substantial change in living habits.

Q. Which have their effect upon off premise consumption?

A. Very definitely.

Hearing Examiner Hier: Off the record.

(Discussion off the record.)

Hearing Examiner Hier: On the record.

(718) *By Mr. Barton:*

Q. Was there an effort made by Anheuser-Busch and other brewers after the repeal of prohibition to get beer into the food stores and get it, in general, classified as a food product?

A. Yes, sir. There were very definite efforts made to get beer; to get beer sales through food stores and to get beer as a commodity to have the connotation of being a food product.

Q. Well, now, how was that effort undertaken?

A. Well, there was a very deliberate effort to make the necessary changes.

To go back again for just a moment, during the 14 years of prohibition the brewing industry had sort of stood still.

I mentioned that in 1934, 75 percent of all of the beer was draft beer. From the figures that we have available, that is about the same percentage of total that was draft beer before prohibition. So they picked up right where they left off and during that period there had been nothing done in changes. But in other food products, in other drug production, that 14 years represented the period that is sometimes referred to by economists as the "pack-

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aging revolution." That was the period when packaging really became a major item in merchandising. It is the period when the crackers left the cracker barrel and went into the box,⁷ and things of that kind.

(719) When beer was re-legalized, one of the first things that the brewing industry realized, that in order to get into this food store and to get this food connotation for beer they had to package it in a way that would be acceptable to that distributive channel. Therefore, they had to go away from the single package, the single container of a 12 ounce bottle and a quart bottle and they went into difference kinds of bottles, the non-returnable bottle. They went into the can. They had the flat top can and the cone topped can. And all of the different packaging devices. They put them into carry-out cartons of six cans, 12 cans, six bottles, and so forth, and everything possible to make it easy for the consumer to buy this packaged beer, to take it home.

In order to get this merchandise in the grocery stores, and especially into supermarkets, where mass displays are the rule, you have to have an attractive package. Price alone is not sufficient to get you all of the consideration you want in the food store in the supermarket. If you don't have a very attractive package, you cannot get a mass display. If you can't get mass display in the supermarkets, you can't get mass sales in supermarkets.

So I would say that the packaging changes, not only in the containers, but in the cartons, the cases—before prohibition, beer was always sold in a heavy, cumbersome wooden case—very shortly after prohibition the wooden cases disappeared and they were replaced by a much lighter weight (720) corrugated card board case—all to

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make it easy for the customer to take beer out of the grocery store and to take it home.

Q. You mentioned supermarkets. What effect has the growth of the supermarket had on the distribution of beer at the retail level?

A. Well, it has had a very great effect. It is possibly a coincidence that the rise of the supermarket dates from almost the repeal date. The supermarkets really started to come along just about 1934, which was the time of repeal.

As I have mentioned in these supermarkets, you have to have attractive packaging to get your mass display space and it is in the supermarket that you can get your beer sold to the housewife. The supermarkets have had two or three basic concepts. Possibly these were given in the testimony that you heard yesterday. I was not here. But they have a price appeal. That is one of their strong points.

You have the packaging appeal, and the "one stop, one shop" idea. The woman can go to the one market and get all of her day to day needs.

I don't say that a whole lot of women would absolutely rebel at the idea, but there are still a lot of women who would resent somewhat the idea of having to go to the grocery store to get the food items there and then having to go to a butcher shop and get the meat, and then having to go to a (721) tavern or liquor store to get the beer for the family.

A certain percentage of them would just resent the idea of having to go into a tavern or liquor store. But when they can pick it up right along with the pretzels and the corn flakes and put it in the basket at the supermarket they have no objection.

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So the supermarket has been a very, very important thing in this whole changing concept of beer distribution.

Q. You have told us that the trend has been towards home consumption of beer, and that as of today something around 65 percent of the beer is consumed at home; that more than half of the packaged beer which is consumed at home is purchased through grocery stores, isn't that right?

A. That is substantially correct.

Q. Now I show RX 129 to you and ask you what it is.

A. That is a report, a visualization of a Crossley survey made for the J. Walter Thompson Company, the advertising agency for the United States Brewers Foundation and made in April of 1949.

Q. Who is the Crossley, who were the Crossley people who made this survey?

A. Crossley, Inc. is a commercial marketing research organization. I would judge that it has been in operation for 20 or 25 years. It is a well recognized, well accepted company in this business, engaging in all sorts of marketing research, (722) opinion research and such.

Q. What was the manner of making the survey which is outlined in Exhibit 129?

A. Well, in the first place, the survey was made by what is known as the personal interview method. The field interviewers of the Crossley organization talked to some ten thousand people. Those people were distributed all over the country, New England, West Coast, Texas, Minnesota, and so forth. They were in large cities. They were in small towns. They were men. They were women. They were young people, 22 or 23 years of age. They were elderly people 60 years of age.

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In other words, the entire population was represented in the sample in proper proportions on a quota basis.

Q. And what in general is the result shown in the survey insofar as off premise and on premise consumption is concerned?

A. Well, one of the charts in this survey shows that about 70 percent of all of the beer that had been consumed in the week before the survey was made was consumed off premise. That is, either in the home of the person who was interviewed or in someone else's home, or picnic or something of that sort, and that about 30 percent of it was consumed on premise, that is, in taverns or restaurants or bars.

Your Honor, I think it would be in order to mention that subsequent to the publication of this survey there was some (723) developments and questions on the technique of it and this 70 percent off premise is probably an over-stated figure. The reason for it is rather simple: The question was asked in the course of the interview: How many glasses of beer did you drink within the last week?

There is fairly good evidence that in some cases the person who answered misinterpreted the question and if they drank a 12 ounce bottle of beer they answered, "I drank one glass of beer."

But actually in compiling the results of this, they assumed, they took an arbitrary figure that each glass of beer averaged eight ounces. There is probably some over stating on the "on premise" and understating on the "off premise." It should be something around 65 percent, with that adjustment in it.

Hearing Examiner Hier: I see on page 11, Mr. Shine, it was 62.2 percent.

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The Witness: Page 11. That is the percentage, 62.2, that is who buy beer or ale for home consumption.

Hearing Examiner Hier: You are talking about —

The Witness: I was talking about where they consume it.

If you will look at Page 33, you will find at the top of page a pi chart which shows that 54.8 percent of the beer reported consumed was consumed in the person's own home; (724) 16.6 was reported in other homes or non-taverns such as picnics; and 28.6 in restaurants and taverns.

By Mr. Barton:

Q. What is the fact with respect to the percentage of packaged beer which was purchased through grocery stores according to the Crossley 1949 survey?

A. Well, if you will broaden that definition a little bit from "Grocery stores" to "food stores", it shows that about 55 percent of the families who bought beer for home consumption, bought it at food stores.

Mr. Barton: I offer in evidence Exhibit 129.

Hearing Examiner Hier: What specific objections do you have, if any, other than the general objection?

Mr. Mayer: Obviously, we have to accept the general reputation of these particular survey people. This witness has not the basic material and it is not available to me, other than that I have the standard objection that we made to the last series of exhibits that have been offered.

Hearing Examiner Hier: It does not come up to the years in question here.

Mr. Barton: Well, Your Honor, there is a subsequent one which was made in 1954 which we are going to offer

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next. There are comparisons on the development between those years. This is put in to show the picture of the general industry and the developments in the field which we consider (725) important in connection with the action that was taken in St. Louis.

Hearing Examiner Hier: A right interesting document.

Mr. Barton: We agree, your Honor.

Hearing Examiner Hier: There is a lot of material in here that does not apply to this complaint. That will be disregarded. Do you have any serious question about the approximate accuracy of this?

Mr. Mayer: No, sir.

Hearing Examiner Hier: Very well, the general objection will be overruled as they have been in the past. The document will be admitted in evidence.

(The paper referred to, heretofore marked Respondent's Exhibit 129 for identification, was received in evidence.)

By Mr. Barton:

Q. Mr. Shine, I show you RX 130 and ask you what it is.

A. It is another Crossley survey that had been made for the J. Walter Thompson Company as the advertising agency for the United States Brewers Foundation.

This one was conducted in May and June of 1954, and in its general nature it is very similar to the other survey. It encompassed some 10,000 interviews properly distributed by geographic area, by city size, by social, economic

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classification, (726) and such to be representative of the total population on a quota basis.

Hearing Examiner Hier: The same —

Mr. Mayer: Did he offer it?

Mr. Barton: Wait just a minute. I offer Exhibit 130 in evidence.

Hearing Examiner Hier: I suppose it is the same objection?

Mr. Mayer: Same objection.

Hearing Examiner Hier: The same objection. Exhibit 130 will be admitted.

(The paper referred to, heretofore marked Respondent's Exhibit 130 for identification, was received in evidence.)

By Mr. Barton:

Q. Now I show you RX131 and ask you what it is.

A. This is a beer report dated 1953, published by the Crowley Collier Publishing Company and the American Magazine. This is not a survey or a survey report in the ordinary sense of the word because this does not refer to a specific survey that had been made by Crowley Collier or by the American Magazine. Rather it is a collection of survey results and survey data from several sources. It refers to some of these Crossley surveys that we have just looked at. It refers to surveys that have been made by firms like the Psychological (727) Corporation, for some of the can companies; it refers to some specific information that has been released by the Alcohol Tobacco Tax Unit and so forth. It is just a compilation of data from several sources.

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Hearing Examiner Hier: What does this show?

Mr. Barton: Referring —

Hearing Examiner Hier: Does it show what 129 and 130 don't show?

Mr. Barton: It is a broader — Perhaps the witness can testify, can answer. As I understood the witness' answer it is a broader base. It is a summary of all of the surveys, including one of the Crossley surveys, but it also includes surveys that have been made by the can manufacturers and by others, by newspapers and by others in the field.

By Mr. Barton:

Q. Isn't that right?

A. That is correct. The only one of the surveys so far admitted that this includes is the 1949 Crossley survey.

Q. What is the fact as to the statement in Exhibit 131 as to the percentage of packaged beer which was sold through food stores?

A. Well, the statement is "most packaged beer is sold in food stores" and specifically it shows that 26 percent of the packaged sales were made through groceries, 23 percent through (728) supermarkets, and six percent through delicatessens and that would add to 52 percent.

Q. And is that in accord with your opinion based upon the available surveys made in the field, which you have examined?

A. Yes, sir, it is my general opinion that something in excess of 50 percent of the beer that is sold for home consumption is sold through food stores.

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Mr. Barton: Your Honor, the only fact to which we make reference in here is that fact. I don't have any desire to burden the record with another document. I would be satisfied that it be merely marked for identification without being received in evidence.

Hearing Examiner Hier: Is that the only fact that you are referring to?

Mr. Barton: To the percentage—it is on page 2—to the packaged beer sales in food stores, in other words, the percent of packaged beer which is sold in food stores according to the American Can Company survey of home beer consumption in 1952.

Hearing Examiner Hier: I notice over here on the next page, page 3, statistics that contradict some of the testimony that I have been listening to here that most of the beer in the home, nearly 70 percent has been bought by the husband, not by the wife in the supermarket.

Mr. Barton: That is true, Your Honor. There is (729) a survey of the Crowell Collier Company which showed that in 1950, the husband bought 69.4 percent.

By Mr. Barton:

Q. What does the exhibit show, Mr. Shine, with respect to a survey of the F. and M. Schaefer Brewing Company Housewife Opinion Poll conducted in 1952 by the Crossley, Inc. with respect to the percentage of purchases by the husband or the wife in cities in which apparently Schaefer was doing business?

A. Why, I think the most significant thing that it shows is the difference by areas. For example, it shows that in New York 50 percent of the beer is purchased by the husband; in New Jersey 73 percent; in Pennsylvania

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68 percent; in Connecticut, 70 percent; and in Massachusetts, 84 percent.

I think the significant thing is the difference shown in different areas.

When we consider that that particular survey was based apparently in those five States and is not a national picture, I don't believe there is any conflict with any other figures that have been mentioned here this morning.

Mr. Barton: If your Honor recalls, the evidence has gone to the purchases through supermarkets, and the price consciousness of the purchasers in the supermarkets. It does not mean that the husband does not carry the case home with him or carry the 6-pack home with him after he goes to the supermarket with his wife.

(730) And in addition, Your Honor, in some States, the law does not provide for distribution through grocery stores. That would necessarily affect any overall statistics on this question.

Hearing Examiner Hier: I am not talking about this witness' testimony. I am talking about Mr. Zimmerman.

Mr. Barton: I realize you are. And I think the fact is that we more commonly associate women with purchasing in the supermarket but the fact is that many, many men go through there also.

Also, this problem of the States in which it is not permissible to sell through grocery stores would affect statistics on that particular question.

Hearing Examiner Hier: Do you have any specific objection to this?

Mr. Mayer: No.

Hearing Examiner Hier: The general objection is overruled. Exhibit 131 is admitted in the record.

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(The paper referred to, heretofore marked Respondent's Exhibit 131 for identification, was received in evidence.)

By Mr. Barton:

Q. I show you Exhibit 132, a copy of the 18th Annual Report of the New York State Liquor Authority to Governor Dewey and the Senate Assembly of New York, for 1951, and direct your attention to Page 11 and tell us whether there is anything (731) in that report which concerns the subject of on and off premise consumption.

A. Yes, sir. There are two paragraphs on page 11, which state specifically:

"In the Authority's report for 1950, we stated our intention 'to raise the standards of premises for which applications may be filed in the hope that this action will more effectively limit the number of licensed premises in which alcoholic beverages may be sold by the drink.' In order to have a factual basis to guide us, we established a moratorium on all applications for new licenses between January 23rd and March 31st, 1951, and during that period conducted a study of such pertinent data as would help us to evaluate the reaction of the rearmament program and state's civil defense needs upon the alcoholic beverage business. One of the principal conclusions from the survey was that in most communities in the State, a number of on-premises licenses approximating local needs were in effect despite which applications were still being filed in considerable number for premises not theretofore licensed.

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“Another conclusion from that study involved an economic phenomenon which has occurred in the past decade at the retail level of the industry. It was demonstrated that whereas in 1940 an estimated 65 to (732) 70 percent of liquor sales were made over the bar in premises licensed for on-premises consumption while the remainder was sold in bottles by package liquor stores, the trend began to swing in the opposite direction and that by 1950 there had been a complete reversal. At the present time, it is estimated that between 65 and 70 percent of liquor sales are made by package stores. Beer sales during this time have followed approximately the same course and as a consequence, with about five on-premises licenses to every one package store, it is apparent that this development has done on-premises licensees a serious economic injury which has been aggravated by the increased costs of operations and increased Federal taxes.”

Q. Is the finding of this Commission based upon any survey in accord with your conclusions on the matter and with other surveys which you have made and which you have seen?

A. In a general way, yes. However, it must be remembered that the findings of this report and this survey applied only to the State of New York and the situation that exists in the State of New York is not necessarily the situation that would exist in the next door State of Connecticut or State of Pennsylvania. Where you have 70 percent in New York, you might have 40 percent in Pennsylvania and might have 80 percent in Connecticut, because the situation will vary from State to (733)

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State as the State laws vary. But this is in general accord with what I would think, in my opinion, is the situation that is in the State of New York.

Mr. Barton: I offer Exhibit 132-A.

Hearing Examiner Hier: Why "A"?

Mr. Barton: I marked it 132, the whole report. I would as soon offer the whole report, except 132-A is the only page of the report on which we are relying.

Hearing Examiner Hier: Do you want the whole report in? I will reject both of them for the simple reason he has already read it in the record. There is no point in adding that, too.

We will come back at 1:40 o'clock.

(Whereupon, at 12:10 o'clock, a recess was taken until 1:40 p.m., this day.)

(734)

AFTERNOON SESSION

1:40 o'clock p.m.

Hearing Examiner Hier: All right.

WILLIAM J. SHINE resumed the stand and testified further as follows:

Direct examination by Mr. Barton (resumed):

Q. Mr. Shine, up until now for the past few minutes we have been talking about the shifts in the industry, beer industry, insofar as there has been a shift from on-premise consumption to off-premise consumption of beer, and insofar as there has been a shift in the sale of the off-premise

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consumed beer from taverns and that channel to grocery stores and a supermarket type of outlet.

Now, what problems, if any, has this shift in consumption of beer and the places where the beer which is consumed at home is purchased, posed for Anheuser-Busch?

A. It has posed some pretty tough problems, because since repeal Anheuser-Busch has concentrated its efforts and has had its—immediately after repeal its efforts were concentrated, and ever since repeal its sales have been heavy in the on-premise type of outlet, in the tavern, in the restaurant, and other such on-premise places.

Now, with the switch to the industry sales going to (735) on-premise—to off-premise outlets, it puts Anheuser-Busch in the position of being contrary to the industry trend.

I think it is a fair statement that on the average probably 65 per cent of the industry sales are off-premise sales, and probably about that same percentage figure, something in the neighborhood of 65 per cent of the Anheuser-Busch business is on-premise.

Q. What is the fact as to whether or not, as this shift has taken place, the regional beers have been in a better position to take advantage of the shift and to keep up with the shifting distribution?

A. Well, they have been in a substantially better position to take advantage of a local situation than has Anheuser-Busch because if a law changed or a regulation changed in a particular state, which was favorable to the sale off-premise, the localized brewer was able to take advantage of the situation, move into it right away.

It might have taken months for Anheuser-Busch to get their sales policies, their promotion efforts, and so forth.

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geared to take advantage of the same situation. They would be coming in there six months or a year with their efforts after the local brands had been in and more or less preempted the fields for the local brands.

Q. Now, what do you base the estimates which you have given the Examiner as to the Anheuser Busch percentage of sales (736) through on-premise outlets and off-premise outlets on?

A. I base that almost entirely on a survey that we made among all of our wholesalers a little over a year ago to find out just what part of their sales were being made to on-premise outlets by type and off-premise outlets by type, and then what part of the actual sale from these dual outlets was being made for on-premise consumption and off-premise consumption.

Q. I show you RX-133-A through -N, and ask you what it is.

(The document referred to was marked Respondent's Exhibit No. 133-A through -N, for identification.)

The Witness: It is a copy of the report that I submitted to management when we completed the tabulations of the survey that we made among our wholesalers and our branches regarding all of their sales made during the month of August, 1954.

By Mr. Barton:

Q. What was the purpose of the survey?

A. Well, the purpose of the survey was to obtain information that otherwise is not available to us.

As I have mentioned previously, when we sell, when Anheuser Busch sells, beer to a wholesaler that is the

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end of the record that we have. Only the wholesaler knows, through his records, and we don't know through ours, to what type of outlets the wholesaler sells the beer, and to what kind of consumption it goes eventually, that is off-premise or on-premise (737) consumption.

The only way for us to get that information is to ask our wholesalers to supply it to us.

Now, to ask our wholesalers to go through that kind of a special report each month would be an imposition on our wholesalers. It would be a chore that we should not ask them to do, and we don't do it. We need that information at periodic intervals. I had been wanting to bring it up to date for some time, I had not been able to get the approval of management on it, but when we got into the sales situation that we were in in 1954, and I went to management and said, "Look, we need this information as of the current time, and especially in light of our sales position," they gave me permission to ask our wholesalers to make this special report.

After all, when we go to our wholesalers on an extensive thing of this kind which involves a good bit of work on their part, I just have to get the approval of general management to ask for such a job being done.

Q. What was the form that was sent out to the wholesalers and what instructions were given them?

A. They are attached right here at the end of this exhibit, the last three or four pages of it; the letter that went to the wholesalers, the instruction sheet, and a copy of the reporting form.

Q. You are referring to 133-K which is the letter which went (738) to the wholesalers?

A. Yes, sir.

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Q. And 133-L and -M, which are the instructions?

A. Yes, sir.

Q. And 133-N, which is the actual form which the wholesaler was to complete?

A. Was to fill in and send back to us; that is correct.

Q. What, in general, were the results of this survey? What did you find out?

A. Well, if you look at RX-133-C, which is the first page of tables, you will note that 16 per cent or about one-sixth of the Budweiser was sold to food stores.

As I have indicated previously, we know that about one-half of the industry volume that is sold to consumers is sold through food stores, which is a pretty clear indication of the fact that we are entirely out of step with the industry on food store sales.

Now, we also see here that 42 per cent was sold to taverns; that 12.7 per cent was sold to restaurants, that 6.8 per cent was sold to clubs; those are all on-premise outlets.

If you put them together, you find that something in excess of 60 per cent of the Budweiser was package Budweiser, was sold to these on-premise outlets; and in total for the industry probably not more than one-third of the beer is sold through on-premise outlets, package and draft combined.

(739) Mr. Barton: Your Honor, I offer in evidence Exhibit 133-A through -N.

Hearing Examiner Hier: Are there any objections?

Mr. Mayer: I still don't see any relevance to the events.

Hearing Examiner Hier: I mean, are there any special objections?

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Mr. Mayer: No, sir.

Hearing Examiner Hier: Well, it is all part and parcel of the same picture, I guess.

Mr. Barton: Yes, sir; it is. We were giving the industry picture. Now we are giving Anheuser-Busch's picture.

Hearing Examiner Hier: The general objection as a continuing objection is overruled. 133-A through -N is admitted into the record.

(The document referred to, heretofore marked as Respondent's Exhibit No. 133-A through -N for identification, was received in evidence.)

By Mr. Barton:

Q. Mr. Shine, were there any other surveys made as a follow-up to your 1954 survey, which is reported in Exhibit 133-A through -N?

A. Yes, sir.

The very poor showing of Anheuser-Busch sales through food stores, as shown in our survey among our wholesalers and branches (740) in 1954, led directly to a comprehensive survey of beer sales through food stores, made for us by the A. C. Nielsen Company.

Q. I show you Exhibits 134, 135-A through -G, and 136, and ask you what they are.

(The documents referred to were marked as Respondent's Exhibits Nos. 134, 135-A through -G, and 136, for identification.)

The Witness: 134 is a copy of the presentation that was made to Anheuser-Busch by the A. C. Nielsen Company, which delineates in some detail in both chart and

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table the findings of the Nielsen study of beer sales through grocery stores during the months of April and May of 1955.

Now, your next number, 135-A, -B, -C, and so forth—

By Mr. Barton:

Q. -A through -G.

A. Yes, sir— -A through -G are seven specific pages from this complete report.

Q. Exhibit 134?

A. 134.

And Exhibit 136 is a map on which we have outlined the boundaries of the eight areas or regions that are referred to frequently during or in the tables and charts of 134 and 135-A through -G.

Q. What were the circumstances under which this survey, which is referred to in RX-134, 135 and 136, was made, Mr. (741) Shine?

A. Well, ever since I had been with Anheuser Busch, I have been interested in getting this Nielsen type of information on Budweiser sales through grocery stores.

(742) I think that the first letter that I ever wrote to Nielsen asking if they had this service available for beer sales was probably within two or three months after I joined Anheuser-Busch. I would be in touch with them a couple of times a year to see if they had made any progress in this field.

This Nielsen information is rather expensive, and without going into detail, I will tell you that there are very few companies individually who can afford to buy the whole complete Nielsen service.

However, when several companies in a field are buying the service, so that the cost is shared, it becomes a practical matter for an individual company to buy it.

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Early in 1955, I think it was probably in February, the Nielsen people in Chicago notified me that a brewer on the West Coast was interested in buying a test period Nielsen survey on West Coast information and that two brewers on the East Coast were interested in buying Nielsen information on a two-month test period basis, and that therefore, they could now buy the national picture on a more reasonable price basis.

Well, I was personally delighted to be able to get the information, and just as soon as I got around to management people to tell them that it was now possible for us to buy it, and that I was sure that the results of this information would be valuable to us in the light of the sales situation, we were (743) facing at the time. I got immediate approval for the job.

We notified Nielsen right away that we would participate and go ahead, and the study was conducted, as I say, during the months of April and May, 1955.

Q. What is the question in which the manner of a Nielsen survey and this Nielsen survey, in particular, is conducted?

A. Well, the manner of all Nielsen surveys in the food field, or in the grocery store field, is identical. Nielsen has selected on what is known technically as a probability sample basis some 1700 grocery stores located all over the United States.

Now, those 1700 grocery stores are selected on a basis so that they will be truly representative of all the grocery stores in the country. In other words, they include large super-markets, and they include little mama-papa grocery stores on the other side of the railroad tracks. They include chains, they include independents, big stores and little stores, that is high-volume stores, low-volume stores.

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It will include stores in cities, in small towns, out in rural cross-road areas.

Now, the method of the Nielsen inventorying system is to go into each one of the selected stores every two months. Now, when they go in the first time, as in the case of this particular beer study, they inventory every store in their sample, complete inventory of every bit of beer that they have in that store by (744) brand, by package size, by container type, every bit of information.

Nielsen has arrangements completed with these store-owners and managers whereby there is an agreement that all invoices for merchandise purchased will be kept in a special locked container. When the Nielsen auditor comes back two months later, in essence what he does or at the beginning inventory, let us say, it was a thousand units on some item, the invoices show there were 5,000 units bought during the two-month period, that means there were a total of 6,000 units available for sale, he inventories the store now and he finds that there are 500 units available on inventory, therefore, they must have sold 5,500 units during that two-month period.

Now, the presentation of the material goes into more or less elaborate detail depending on the individual count, the individual category and so forth. They will present the data on a basis of a particular customer's sales, regions, or they will present the data on the basis of census regions or any way that you want it presented to be most useful to you, broken down by sales, by each type of store, by geographic area, by city size, in very great detail.

Mr. Barton: If your Honor please, I am going to proceed with some detailed questions on this survey, but pre-

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ceding that, I offer it in evidence in order that those (745) questions may be asked.

I would point out that since the material upon which we are going to ask questions is contained, all of it is contained, on Exhibit 135-A through G, I will not offer 134. It was merely placed here to see the derivation of 135.

Hearing Examiner Hier: One thing I want to find out here is do you know what the explanation of closed group one and closed group two is in this?

Mr. Barton: Yes, Your Honor.

The Witness: Yes, sir.

Mr. Barton: If you want to, we can go into it now, but it will be developed.

Hearing Examiner Hier: That then means 134 is withdrawn?

Mr. Barton: That is right, Your Honor; and 135-A through G, and 136 are offered.

Has there been a ruling?

Hearing Examiner Hier: No, I am waiting for Mr. Mayer. He has not had a chance to look at it yet. Do you want some time to look at this thing?

Mr. Mayer: Yes, sir.

Hearing Examiner Hier: It is far from simple. We will take a short recess.

(A short recess was taken.)

(746) Hearing Examiner Hier: All right, go ahead.

Mr. Mayer: We have no objection other than our objection on the basis of relevancy.

Hearing Examiner Hier: All right. If that is the case, 135-A through G will be admitted, and 136 will be admitted, 134 being withdrawn. You may read into the record the page you are talking about.

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(The documents referred to, heretofore marked Respondent's Exhibits 135-A through G and Exhibit 136 for identification, were received in evidence.)

Mr. Barton: On Exhibit 135-B and subsequent pages, there are references to closed group number one and closed group number two.

According to the Nielsen survey, closed group number one following named companies: Carling, Genesee, National, Drewry, Goebel, Pfeiffer, Duquesne, Griesedieck, Schmidt, and Jax.

Closed group number two includes the following named companies: Alt Heidelberg, Atlas Prager, Bavarian, Blitz-Weinhard, Bohemian, Burger, Canadian Aet, Coors, Dawson, Esslinger, Fort Pitt, Fox Deluxe, Grain Belt, Grand Prize, Gunther, Harvard, Huedepohl, Heilman, Iron City, Leesev, Lone Star, Main-602, Meisterbrau, Naragansett, Olympia, Ortlieb, P.O.C., Pearl, Pickwick, Rainer, Red Top, Southern Select, Stag, Standard, Stroh, and Wiedeman.

(747) Hearing Examiner Hier: Mr. Barton, the only place I see that reference to closed group one and closed group two is on 135-G.

Mr. Barton: It is also on B, Your Honor; it is also on C—it is on B, C, and G.

By Mr. Barton:

Q. Now, Mr. Shine, I think this is a good time to go into the reasons for this closed group. Would you please explain to His Honor what the reasons were for classifying certain breweries which I have read into the record as being closed group number one, closed group number two, into designations known as and reported as closed groups one and two.

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A. Our principal interest in this type of a survey by Nielsen was to obtain brand information on the national shipping brands, and a few of the important regional competitive brands like Hamm's, Falstaff, and so forth.

Now, the brewers in New York, who were buying a part of this survey were interested specifically in certain brands in New York. The brewers on the West Coast who were buying a sectional part of the survey were interested in certain brands.

Now, in total, those would number maybe 20 brands. Nielsen charges for their service, for their tabulating service, on the basis of how they break them out, and each individual brand that is tabulated costs something in the neighborhood of \$265 apiece to tabulate an individual brand. So if we had tabulated each brand name, we would have had a fabulous amount of money involved.

(748) On the other hand, we didn't want to put all of the remaining brands into one big "all other" classifications. So we broke them into—we put the ten of them into closed group one; we put 36 into closed group two, and we let all others remain in an "all others" group.

Now, the basis of selection of the brands that we put into each one of those closed groups was such that we could tell pretty well from the breakdown what brand was involved. Thus, where we have in closed group one, we have Carling. Well, now at the time that this survey was developed originally, discussed with the Nielsen people, practically all of the Carling beer was sold around Cleveland. Therefore, we knew that whatever came up in the Region in which Cleveland was located would, in all probability, be Carling beer, so we were getting a tabulation on Carling beer without having to pay for it individually.

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Q. Not meaning to interrupt you, but does that mean the composition of closed group one is such that Carling would be practically the only brewer in that Region in which Cleveland is located?

A. It is a fair assumption that more than 90 per cent of the sales of the closed group one in that Region would be Carling.

Q. I see.

A. We were getting, therefore, the benefit of a tabulation (749) of the Carling brand without having to pay for the specific brand break-out. It was strictly a dollars and cents economy measure to do it that way.

Q. Well, now I think—

A. I might add one other thing: that we could not get Hamms and Falstaff in that way because Hamms spreads out more than any one of the Regions that we have for our breakdown. Falstaff spreads over considerably more than any one of the Regions we had for our break-out.

Therefore, we couldn't put Hamms in one closed group and be sure that everything we got in a certain region was Hamms because Hamms has gone over to two or three Regions and so has Falstaff.

Q. You are particularly interested, I take it, in getting the details with respect to Falstaff and Hamms about the Regionals, among whom you are interested in getting—

A. Yes, sir, the other Regional brands we were getting them in sufficiently satisfactory detail by putting them into the closed group.

Q. Now with specific reference to our Ex. 135-A, are the area designations, area one through eight, the same as are shown on Exhibit 136?

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A. Yes, sir; they are the same, and I think that it might be in order to further qualify one of those areas, and that is the one that is on here as area two.

(750) Q. You say "on here", what do you mean?

A. On our Ex. 136 that is the one designated as area two.

Now, area two consists of the New York State part of metropolitan New York. It does not include any of the part of metropolitan New York that is across the River in Jersey. It does not include any of the part of metropolitan New York that is up in that lower section of Connecticut. It is merely the New York State of metropolitan New York.

I believe that all of the other areas are indicative of the map because they are all on state boundaries, but I do want to clear up that area definition of area two or of Region two.

Q. Referring again to our Ex. 135-A, what is shown in the first column appearing thereon after the "area one", "area two" and so forth?

A. The first column on the left —

Q. That is right. Continue.

A. Is the population column and it shows that the total population of the United States is indicated at the top of the column and is 162,600,000 on which they have based this breakdown.

Now in area one which from the map are the fixed New England States, New York, Pennsylvania and New Jersey, except or excluding that New York State part of the metropolitan New York, that area one has 19.4 per cent of that 162,000,000 (751) population: 19.4 per cent

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of the total population is in area one; 6.2 per cent of the total population is in area two.

Q. That is similar for each of the areas?

A. Right down the list.

Q. Now what is shown in column two of 135-A?

A. Column two, which is headed "food-comm.," is the percentage of food sales through grocery stores made in each one of the areas; in other words, area one, 21 per cent of all food stores made—food sales made through grocery stores are in area one; 6.1 per cent of all food store sales through grocery stores in area two and so forth.

Q. What is the top figure "6278", what does it mean?

A. That is the total of food store sales through grocery stores for the period involved, and it means \$6,278,000.

Q. Isn't it —

A. \$6,278,000.

Q. Isn't it \$6,278,000,000?

A. It might well be if they have it on an annual basis, yes. That is the total food commodity sales through grocery stores. On an annual basis it is billions.

Q. Billion on an annual basis.

What does the third column represent?

A. The third column represents the total sales of beer through grocery stores broken down by these Regions. In other words, of all the beer that was sold through grocery stores (752) during April and May 1955, 16.7 per cent of it was sold through grocery stores in area one; 21.1 per cent of it was sold through grocery stores in area two.

Q. Yes.

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Now, what is the 30,045 at the top of the column. What does that mean?

A. 30,045,000 cases of beer were sold through grocery stores during April and May and that is in terms of equivalent cases.

Neilsen actually measured the beer in terms of the actual units that were sold, so many cases of 12 bottles of 32 ounces each; so many cases of 24, 12, so many cases of 7 ounce, whatever it might be; then they were all reduced to a 288 ounce equivalent case, which would be the equivalent of a case of 24 12-ounce bottles. So it means that through grocery stores in April and May 1955, 30,045,000 24 12-ounce equivalent cases of beer were sold.

Q. That is of all brands?

Examiner Hier: Now, what is this 28.8 ounce equivalent?

The Witness: Your Honor, that is a typographical error; it should be 288 ounces.

Examiner Hier: It means a full case?

The Witness: Yes, sir, 24 12-ounce.

By Mr. Barton:

Q. As I understand it, this \$30,045,000 at the top of the (753) column numbered three; that does not represent the sales in the stores surveyed but rather represents the total sales of all grocery stores, based on a projection of the stores surveyed to the total?

A. That is absolutely correct. As I said, the Neilsen sample is what is known as a probability sample; therefore, it is a sample that is fully projectable. They know that those 1700 stores and their sample represent a certain percentage of all the grocery store business. What

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ever they find in their inventorying and auditing of those stores is, therefore, projected through the total grocery store field.

Q. Now, with respect to the third column, do I interpret it correctly that the figure 21 with respect to area two means that 21 per cent, 21.1 per cent, of all beer that was sold through grocery stores was sold through grocery stores in that area, in area two, which is the New York State part?

A. That is correct.

Q. Of the metropolitan New York?

A. That is correct.

Q. Even though that area accounts for only six per cent of the population and six per cent of the sales of the food through food stores?

A. That is correct. The grocery stores in area two as outlets for the sale of beer are far more important proportionately than they are in relation to population and total (754) food store sales.

Q. What do the remaining columns on Exhibit 135-A represent or mean?

A. Well, brand for brand as indicated at the top of the column, they show the sales pattern for each individual brand that is tabulated. Thus, the fourth column is the Budweiser column and it means that 20.5 per cent of all of the Budweiser that was sold through grocery stores during April and May were sold through grocery stores in area one and it means that 7.9 per cent of all the Budweiser sold through grocery stores in April and May were sold in area two. Therefore, we see that in area two which was 6 per cent of the population, 6 per cent of the food store sales, was 21 per cent of the beer sales

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through grocery stores and 8 per cent of the Budweiser sales through grocery stores. Therefore, again it illustrates the fact that Budweiser is quite different than the industry pattern again in that particular area.

Q. What does the figure "108" at the top of the column No. 4 with relation to Budweiser mean?

A. That means that on the basis of the projections from the sample stores surveyed 1,082,000 cases of Budweiser was sold through grocery stores during April and May 1955.

(755) Now, your remaining columns, each one, is designated at the top of the column as of the particular brand, and your next area, you have the Schlitz figures, Pabst, Miller, Blatz, and so forth. It is possibly interesting to note some of the differences that you find as you look at these columns.

Just look at the differences between the two Ballantine columns, one for Ballantine Ale and one for Ballantine Beer.

You see that 65 per cent of the Ballantine Ale that was sold through grocery stores was sold in Area 1. And now, Area 1 is predominantly the New England states. For years that has been the traditional ale area, so they have their big share of ale sales in Area 1.

Now, Ballantine Beer has 68 per cent of its sales through grocery stores in Area 2, and only 30 per cent of its sales in Area 1, which is the ale area. You see the sectional nature of beer by those two; you also see the sectional nature of beer by Hamms and Falstaff. Look especially at the Falstaff, and you see that —

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Q. That is the last column on the page of Exhibit 135-A?

A. The last column on the right. Thirty-five per cent of all the Falstaff that is sold through grocery stores in Area 6, and in Area 6 you have 13 per cent of the population, and 12 per cent of the food store selling, and four per cent of the beer sales through grocery stores, but 35 per cent of (756) Falstaff sales through grocery stores.

Q. What are the Budweiser sales in that area through grocery stores?

A. Budweiser sales are 6.2.

Q. And Area 6 is roughly—

A. The Southern states.

Q. In other words, Texas, Oklahoma, Arkansas?

A. Arkansas over to and including Alabama.

I think it is also interesting to note that at the top of the Falstaff column you see that the total Falstaff sales through grocery stores were 1,007,000 cases of beer during April and May, and Budweiser was 1,082,000 cases. Therefore, Falstaff, which, by their own admission in their annual reports and so forth, say that they do business in about one-third of the country, had almost as much sales through grocery stores as does Budweiser which operates nationally.

Hearing Examiner Hier: Let me interrupt here a moment.

Mr. Barton: Yes, sir.

Hearing Examiner Hier: Look at column—the column of Ballantine Beer.

The Witness: Yes, sir.

Hearing Examiner Hier: The bottom of that column looks like either a Chinese laundry ticket or an Einstein

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formula to me. What is that zero and then above the zero the figures two, zero above the zero figure one, what does that mean there?

(757) The Witness: Well, Your Honor, each one of the segments on each one of the bars refers to over here. Now, there is some small amount of Ballantine Beer that is sold in other areas, very small.

The third area, Area 3, had 1.9 per cent of the Ballantine Beer that was sold through grocery stores, were sold in grocery stores in Area 3; 0.2 per cent of the Ballantine Beer was sold through grocery stores in Area 4.

Hearing Examiner Hier: I see.

The Witness: 0.1 in Area 5; and in 6, 7 and 8, the amount of it was less than one-tenth of one per cent.

By Mr. Barton:

Q. Mr. Shine, what are, according to this chart, the large areas, the areas of the greatest sales for sales of beer through grocery stores?

A. Well, if you will look at the third column from the left, the one headed "All Brands Comb." you will note that Area 2, which has 21.1 per cent, Area 4, which has 22.6 per cent, and Area 8, which has 21 per cent, so combined those three areas account for 63.7 per cent, practically two-thirds of all the beer that is sold through grocery stores, is sold through grocery stores in those three areas, 2, 4, and 8, and in those three areas by comparison in those three areas of 2, 4, and 8, you will find about 34 per cent of the Budweiser sold or about one-third of the Budweiser that is sold through grocery stores. (758) is sold in those three areas where two-thirds of the industry

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sales through grocery stores are made, again demonstrating our high-lighting the fact that the pattern of Budweiser sales and distribution is so frequently just the reverse of the industry pattern.

Q. What is the situation which is shown with respect to a brand like Rheingold, which is on 135B?

A. If you will look at the top of the column for the first interesting comparison, you will see that Rheingold has 2,622,000 cases of 24 12-ounce equivalents sold through grocery stores through April and May; that is roughly two and a half times as much as Budweiser sold through grocery stores.

And you will note that 86 per cent of all the Rheingold that was sold through grocery stores was sold through grocery stores in Area 2, which is the New York State section of Metropolitan New York.

In other words, Rheingold sold 86 per cent of its two and a half million cases in the area where Budweiser sold eight per cent of its million cases.

Q. What is the information that is given on page 3, on 135C?

A. 135C is from the same basic information as 135A and B, but it is expressed here in terms of percentage.

On 135C, each of the lines adds across to 100 per cent. Thus on the top line, which is marked total area, it means that Budweiser accounts for 3.6 per cent of all the beer that was (759) sold through grocery stores in April-May 1955. Incidentally, it establishes again the difference.

We know that Budweiser accounts for approximately seven per cent of the total industry sales. We account for three and a half per cent of the sales through grocery

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stores. Schlitz accounts for four per cent; Miller 2.1, and so forth.

You see that the biggest single brand that is listed in here is Rheingold with 8.7, the largest individual brand. Practically nine per cent of all the beer that was sold through grocery stores during the months of April and May 1955 was Rheingold, and we have already seen on the previous chart that 86 per cent of Rheingold sales through grocery stores were made in Area 2, which is the New York State part of Metropolitan New York.

Hearing Examiner Hier: This last column, "A.O." That means all others?

The Witness: All others.

By Mr. Barton:

Q. That is apart from those that are in closed group one and two?

A. Closed group one and two, and all others, is all others except those — except the listed brands in closed groups.

Hearing Examiner Hier: Tell me this: This closed group 2 I see six brands of beer I never heard of before. What are they doing there? Main-602, what is that doing there?

(760) The Witness: Your Honor, that is a typographical error. It is not Main-602; it is Maier-102.

Hearing Examiner Hier: It is still Greek to me.

The Witness: That is a brand that is sold on the West Coast, principally in the Los Angeles Area.

Hearing Examiner Hier: Olympia is the same thing?

The Witness: Olympia from the Pacific Northwest.

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By Mr. Barton:

Q. Are there any other typographical errors on there, Mr. Shine?

A. One other that I know of. Just above, two above Main-602, it is L-e-i-s-e-y instead of L-e-e-s-e-y, which is a brand in Cleveland, Ohio.

Hearing Examiner Hier: Is this Blitz-Weinhard a West Coast beer?

The Witness: Yes, sir; it is from up in the Pacific Northwest.

(761) Hearing Examiner Hier: All right. Go on, Mr. Barton.

By Mr. Barton:

Q. Yes. What is the position of Falstaff as shown by Exhibit 135-C?

Mr. Mayer: Mr. Examiner, I submit he has explained the basis of this exhibit. We are just droning on and on.

Hearing Examiner Hier: I do not see that it is necessary for him to draw conclusions that are on the exhibit. I will sustain the objection.

Mr. Barton: Very good.

By Mr. Barton:

Q. Referring to Exhibit 135-D, what is the meaning and how do you read that page?

A. That is the exhibit that gives the data on total distribution and out-of-stock.

Now, if you will look at the first line, first horizontal line, it says, "Total max." In the Budweiser column it says, "Bottles can comb." which is an abbreviation for "combined."

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Under that "combined" you have a heavy black figure of 81. It means that 81 per cent of all of the stores that handled beer handled Budweiser at some time during the two months of April and May. In other words, Budweiser distribution through grocery stores during April and May was 81 per cent.

(762) Immediately under the 81 you have a small "4" which means that on the day the Nielsen auditor was in the store 4 per cent of the stores did not have any Budweiser on stock that particular day. However, the auditor knew that they had Budweiser on stock at some time during the April-May period because he had found an invoice in the box indicating they had purchased some. In other words, they were temporarily out of stock on the day the audit was made.

If you will note the Budweiser distribution of 81 per cent is very good, and any brand that can achieve an 81 per cent distribution record nationally has done a very good distribution job, and if you look down the column under the 81 and see that we have Budweiser as 85 per cent in Area 1, and 81 per cent in Area 2, and 94 per cent in Area 3--the lowest distribution they have any place in grocery stores is in Area 8 which is 72 per cent. I submit that that is a very splendid distribution record for any brand to have.

Hearing Examiner Hier: I still do not know what you mean by "combined."

The Witness: It is the combined bottles and cans.

Hearing Examiner Hier: I see.

The Witness: In other words,—

Hearing Examiner Hier: It can be one or the other or both?

William J. Shine, for Respondent—Direct

The Witness: That is correct.

(763) Now, I also say that when a brand has 81 per cent distribution, as Budweiser has, and has only 3.6 per cent of the sales, that it indicates that there is no too close or too good a correlation between distribution and sales; that the brand is available for purchase, but there are not too many of the people picking it up off the shelves.

By Mr. Barton:

Q. How does Budweiser, referring generally to—strike that.

Referring generally to Exhibit 135-A through -G, what do they disclose with respect to a comparison of Budweiser and Falstaff as to the nature of the distribution and the nature of the sales? It is a summary question, Mr. Mayer.

Mr. Mayer: We will summarize all night. We can all conclude what the figures mean, I think. The explanation has been clear.

Mr. Barton: Won't it be helpful in the record to have it as a summary rather than to go back to the exhibit?

Hearing Examiner Hier: You are going to go back anyhow in cross-examination, I don't think the question is proper. We can all draw our conclusions, and the basic figures are here. Objection is sustained.

(The document was marked Respondent's Exhibit 137-A through -D for identification.)

By Mr. Barton:

Q. Now I show you Exhibit 137-A through -D, and ask you what (764) they are.

William J. Shine, for Respondent—Direct

A. It is a series of tables that we have developed on the basis of information that is supplied to us by Family Circle magazine showing the percentage of total beer sales by brand by certain quarters of the year made through each one of the individual warehouse locations of Safeway Stores.

Mr. Barton: Your Honor, I offer 137-A through -D in evidence.

Hearing Examiner Hier: Let him have a look at it first.

Mr. Mayer: We have only the usual objection of relevancy, sir.

Hearing Examiner Hier: 138-A through -D is admitted in the record.

(The document referred to, heretofore marked for identification Respondent's Exhibit 138-A through -D, was received in evidence.)

By Mr. Barton:

Q. By Mr. Shine, how do you read 137, Exhibit 137-A through -D?

A. Taking 137-A as a typical example—

Q. Take as an example Omaha, Nebraska.

A. Omaha, Nebraska? It will read that in the first period, which is defined at the top as the twelve weeks ending March 26, 1955, 4.9 per cent of all the beer that was sold through (765) Safeway Stores Omaha warehouse on a unit basis was Budweiser and 5.5 per cent of the beer was Schlitz, 2.5 was Pabst, 3 per cent was Miller; 26.1 was Best; 16.9 was Storz Gold Crest; 11.9 was Falstaff; 12.1 was all others.

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Q. Is that the way in which the remainder of the exhibit could be read?

A. Yes, sir. I think that it should be mentioned, however, that on pages B and C where there are three and two columns in each year, it must be remembered that in order to get direct comparisons you have got to read the proper period columns.

Q. In other words, the first period on each page must be read against the first period on the other page?

A. That is correct, in columns.

Q. To get a year-to-year comparison?

A. To get your columns.

Hearing Examiner Hier: Mr. Shine, the addition of these figures horizontally does not add up to a hundred per cent, does it?

The Witness: Not in all cases because in many cases we tabulated on here, Your Honor, only the national shipping brands that were common to all the warehouses, which were these four. The largest regional or local brands that we tabulated, and in some cases the Safeway Stores warehouse reported, only two or three individual brands, and lumped it (766) into "all others."

We were not interested again in copying off all of the detail which would have run a sheet out that long.

By Mr. Barton:

Q. What, in general, does the exhibit show with respect to the trend of Budweiser's share of sales in Safeway Stores?

A. In summary it shows that since the third quarter of 1953 the Budweiser share of beer sold by Safeway Stores has been declining constantly.

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Hearing Examiner Hier: In summary you had satisfactory, if not excellent, coverage or diffusion, but unsatisfactory volume in this off-premise sale—

The Witness: Yes, sir.

Hearing Examiner Hier: (continuing)—in food stores.

The Witness: Our distribution was good, our share of the sales was poor.

Mr. Barton: Which is unfortunately growing. Your Honor; the distribution through that channel is growing; it is a developing matter.

By Mr. Barton:

Q. Now, do you have any information on any other of the supermarket chains so far as sales of Budweiser are concerned?

A. Not very much, and not from very many.

As a general rule, the supermarkets and the grocers (767) chains are rather unwilling to give out any information on sales. It is a happenstance that this kind of information on the Safeway Stores, which is available through Family Circle magazine, which is a publication distributed through Safeway Stores, was made available to Family Circle for advertising sales purposes.

Now, once in a while you can get a little information from some other stores. Within the last few weeks we got a little bit of information on Kroger stores, for example, in Cincinnati.

We found in the Cincinnati district of the Kroger Stores that the average sale of Budweiser was 1½ cases per store per week, and their average sale of beer was between 75 and 100 cases per store per week, so we were getting about 2 per cent of the business.

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We found out from the Kroger district office in Detroit that something under 3 per cent of the money that Kroger spent to buy beer during the month of October was spent for Budweiser. If they spent 3 per cent of their money for Budweiser, it meant that about 2½ per cent of the units of beer that they bought were Budweiser.

(A document was marked Respondent's Exhibit 138-A through -F for identification.)

By Mr. Barton:

Q. I show you Exhibit 138-A through -F and ask you what it (768) is.

A. These are photostatic copies of a continuing study that has been available for a number of years through the New York World-Telegram showing beer sales in the New York market.

Q. What is the survey based on?

A. The basis of the survey is much like the technique used by Nielsen.

• The New York World-Telegram has a sample of 120 stores in the New York area, and they do in those 120 stores each month practically the same thing that Nielsen does in 1700 stores every two months.

(769) They go in and take a beginning inventory, record all the purchases that have been made, subtract the ending inventory and the difference represents the sales.

Q. What is the classification by World Telegram which they include as premium beers in the New York area?

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A. They have included as premium beers more brands than are generally included under such a heading. They include Blatz, Budweiser, Fox Head, Miller's High Life, Pabst, Prior, Schlitz, and Guinness Stout.

Q. Now, in general, do you read this survey in much the same manner as the Nielsen survey is read?

A. In general, yes. But I think there are some specific differences. For example, if you will look just at the May column on 138A, you will see at the top it says 94 stores, May, 120. It means that 94 stores out of the 120 in the panel had beer on hand at sometime during the month of May. That was the extent of distribution of beer by stores.

Now, in that May column, under the heading "Avg." you will read 355.7. That is the average number of units of what they call premium beer sold per store during the month of May.

Now, if you will turn to item 138-D in the May column, under "Avg." you will see 3488.9, which means that 3488.9 units of non-premium beer were sold in the average store during the month of May.

Therefore, the premium brands accounted for about 10 per cent (770) of the beer that was sold through grocery stores.

Mr. Barton: I offer 138-A through F in evidence.

Hearing Examiner Hier: Will you tell me what this exhibit shows that is not in the record already?

Mr. Barton: Well, Your Honor, it is a more specific definition of the problem. I agree, in some sense, it is cumulative, except that it is a more specific study of the New York market as distinguished from Nielsen, which was a nation-wide survey of all grocery store channels.

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and it has break-outs on a number of different brands which Nielsen didn't have.

Hearing Examiner Hier: It seems to me you are just encumbering the record here. If you have to appeal this case, Mr. Barton, it is going to cost you a fortune to print up the record with all these exhibits in here.

Mr. Barton: We hope that is not the case, Your Honor.

Hearing Examiner Hier: I understand.

Mr. Barton: But we will withdraw the exhibit.

Hearing Examiner Hier: I don't think it adds anything.

(Respondent's Exhibit 139 was marked for identification.)

By Mr. Barton:

Q. I show you Exhibit 139 and ask you what it is.

(771) A. It is a comparison of Anheuser-Busch and the industry in on-premise and off-premise sales. It is developed from two — it is a chart that is developed from two—separate exhibits, I have mentioned previously that Anheuser-Busch has 55 per cent of its package beer sold on-premise, as developed from the survey that we made among our wholesalers and branches in August of 1954.

Now, that is package beer only. We also produce draft beer. Therefore, we extend these on-premise, off-premise percentages for package beer to the right, to the middle column. We add on top the draft beer which, of course, is all on-premise consumption, giving us a total of 63 per cent of our beer sold on-premise as against 37 per cent off-premise, and in the last column at the right.

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we have shown the graph based upon the Crossley survey, which shows that 38 per cent of the industry is on-premise, and 62 per cent of the industry is off-premise, again showing that the distribution pattern on-premise and off-premise of Anheuser-Busch in the industry are almost diametrically opposed.

Mr. Barton: I offer it in evidence.

Hearing Examiner Hier: Before we get to that, do you sell more draft beer in the United States than any other brewer?

The Witness: No.

Hearing Examiner Hier: You do not?

(771-A) The Witness: No.

Hearing Examiner Hier: Who leads in that respect?

The Witness: Your Honor, I don't know who is leading this year. The last time that I made any kind of a reliable tabulation on it, there were two breweries in New York, local breweries in New York, that led us in sales of draft beer.

Hearing Examiner Hier: Nationally?

The Witness: Yes, sir. They sold more draft beer in the New York and their immediate draft beer area than we sold nationally.

Hearing Examiner Hier: Tell me one other thing: Have your sales of draft beer nationally been on an upward or downward trend?

The Witness: They have been on a downward trend.

Hearing Examiner Hier: Since when?

The Witness: I would say since Repeal. The percentage of our total volume represented by draft beer has been going down constantly, and we are always a little bit

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under the industry, a few percentage points under the industry.

Hearing Examiner Hier: Off the record.

(Discussion off the record.)

Hearing Examiner Hier: On the record.

Mr. Barton: I offer 139, Your Honor.

Hearing Examiner Hier: Anything but the usual (772) objection, Mr. Mayer?

Mr. Mayer: No, sir.

Hearing Examiner Hier: Admitted.

(The document referred to, heretofore marked Respondent's Exhibit 139 for identification, was received in evidence.)

(Respondent's Exhibit 140 was marked for identification.)

By Mr. Barton:

Q. I show you RX-140, and ask you what it is.

A. This is a tabulation of Anheuser-Busch package beer sales through our city sales department in St. Louis, Missouri, to on-premise outlets by months for the years 1953, 1954, and through October of 1955, showing the number of cases sold to off—to on-premise outlets each month, and the percentage of our total sales represented by those sales to on-premise outlets.

Q. What does it show with respect to the percentage of on-premise and what is left, of course, is off-premise, in relationship to the price change which took place in Budweiser in the period 1954 to 1955?

A. Well, to summarize it quickly, it shows that in the first six months of 1953, 70 per cent was sold on-premise;

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the last six months, 69 per cent was sold on-premise. As you start down 1954 by months, it is 68, 66, 65, 64, 61 and then a sudden (773) drop in June to 47 per cent. That further drop in July results in 42 per cent; it stays in the forties all the way through 1954; and at the beginning of 1955, it is up a little bit to 51; then it is back to 43, and then 53, 68, 59, 54, back to where it was —

Q. So that summarizing, during the time that Budweiser was selling at a price competitive to Falstaff, the distribution pattern was a complete change practically from that which existed prior thereto and which has existed since the prices have been readjusted.

A. Absolutely; almost again the reverse pattern.

Mr. Barton: I offer RX-140 in evidence.

Mr. Mayer: May I inquire, Mr. Examiner, concerning this exhibit?

Hearing Examiner Hier: Certainly.

Mr. Mayer: Was the answer given to Mr. Barton's question, Mr. Shine, with regard to Falstaff, based on any figures appearing on Exhibit 140?

The Witness: With regard to Falstaff?

Mr. Mayer: Yes, sir.

The Witness: No, sir.

Hearing Examiner Hier: Obviously not; there are no Falstaff figures on it.

Mr. Mayer: We have no objection to Exhibit 140.

Hearing Examiner Hier: Admitted.

(774) (The document referred to, heretofore marked Respondent's Exhibit 140 for identification, was received in evidence.)

(Respondent's Exhibit 141 was marked for identification.)

William J. Shine, for Respondent—Direct

By Mr. Barton:

Q. I show you RX-141, and ask you what it is.

A. This is a tabulation of Budweiser and Busch Lager package beer sales in St. Louis, St. Louis County, both on-premise and off-premise by months for the first six months of this year.

(775) Q. Now, referring again to RX-140, Mr. Shine, what was the effect of the January price reduction, January, 1954 price reduction, by Budweiser in terms of effect upon this distribution pattern as to sales on-premise and off-premise outlets in St. Louis?

A. There was practically no effect. You will note that in October, November, December, 1953, it was running 69, 70, 67 per cent; in January, 1954 it was 68, February 66, practically no change.

Q. What, Mr. Shine, does the insignificant change of the switch from on-premise to off-premise sales in January, 1954, and the existence of a significant switch only in June of 1954 indicate?

A. It indicates rather clearly to me that during the period January through May, when there was a small reduction in price, there was no effect in increasing our off-premise sales, and when you get a reduction to the level of Falstaff and other popular priced beers in the St. Louis market, you get a substantial increase in your off-premise sales.

Q. Is it not a fact that the percentage of off-premise distribution in the months of June, 1954 through February, 1955 approximated the industry percentage with respect to sales to off-premise outlets?

A. Yes, sir; it got a lot closer to the industry pattern.

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Q. With respect to RX-141, it is a fact, is it not, that the (776) price of Budweiser was raised on March 1, 1955 to something above the price at which it had been selling prior thereto?

A. Yes, sir.

Q. And in effect, Exhibit 141 shows that the distribution pattern switched immediately to a more stronger percentage through the on-premise outlets, does it not?

A. That is correct.

It is back almost to the same percentage that prevailed in those same months in 1953.

Q. Now, in March of 1955 Anheuser Busch put out a new product called Busch Lager?

A. Yes, sir.

Q. It did, did it not?

A. Yes, sir.

Q. And at what price was Busch Lager sold in comparison to the prices charged by Falstaff and other St. Louis beers?

A. Busch Lager was sold at the same price as Falstaff and the other St. Louis local beers.

Q. Referring to RX-141, what was the sales pattern with respect to on-premise and off-premise outlets in respect to Busch Lager?

A. Well, it shows that Budweiser sales for the first six months of 1955 had 48 per cent of their volume off-premise, and Busch Lager had 73 per cent of its volume off-premise.

Hearing Examiner Hier: When did the Busch Lager go (777) out on the sales line? When did you put it out?

The Witness: March of 1955.

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Hearing Examiner Hier: Is that what is known as a fighting brand or a store brand or does it have some peculiar designation in your department?

The Witness: No, sir.

It is another brand of beer manufactured by Anheuser Busch.

Hearing Examiner Hier: Is it made exclusively for off-premise —

The Witness: No, sir.

Hearing Examiner Hier (continuing): — distribution?

The Witness: No, sir.

Hearing Examiner Hier: It is not a draft beer, is it?

The Witness: No, sir; not in St. Louis; no, sir. It is sold from the St. Louis brewery as a package beer.

Hearing Examiner Hier: Off the record.

(Discussion off the record.)

(778) Hearing Examiner Hier: Back on the record. If I recall, the government's case ended in March of 1955 when the price went back up again, and the rest of it is dark. Now they are starting to show what happened since then.

Mr. Barton: I offer 141 in evidence.

Hearing Examiner Hier: Same objections?

Mr. Mayer: Same objections.

Hearing Examiner Hier: Admitted.

(The paper referred to, heretofore marked for identification Respondent's Exhibit 141, was received in evidence.)

By Mr. Barton:

Q. I show you 142-A and B and ask you what they are.

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A. 142-A is a graph of package — Budweiser package beer sales through the City Sales Department in St. Louis on premise and off premise outlets in terms of cases. Sales to on premise outlets are indicated by the heavy line, the sales to off premise outlets indicated by the dotted line.

Q. Yes. Now, what is 142-B?

A. 142-B is the information on a percentage basis. Solid line shows the percentage of the total package beer sales through on premise outlets. The dotted line shows the percentage of Budweiser package beer sales in St. Louis, Missouri, through off premise outlets.

Q. There is a graph — these two charts are graphic representations of the statistics that have been previously admitted, are (779) they not?

A. That is correct.

Er. Barton: I offer 142-A and B in evidence, your Honor.

Hearing Examiner Hier: Same objection?

Er. Mayer: Yes, sir.

Hearing Examiner Hier: Anything additional?

Er. Mayer: No, sir.

Hearing Examiner Hier: Admitted.

(The papers referred to, heretofore marked for identification Respondent's Exhibits 142-A and B, were received in evidence.)

Er. Barton: This may be a good place to take a short recess. We are going into a new subject.

Hearing Examiner Hier: We will take five minutes short recess was taken.)

Hearing Examiner Hier: On the record. Go ahead.

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Mr. Barton: The two charts have been received, I believe. This is off the record.

Hearing Examiner Hier: I believe so.

(Off the record discussion.)

By Mr. Barton:

Q. Mr. Shine, I show you RX 143-A through C and ask you what they are.

A. 143-A is a letter sent to all of our wholesalers on (7-0) September 21, 1955, asking for some specific information. 143-B is an explanation of how they are to provide the information wanted. And 143-C is the reporting form on which they were to fill in the information and send the form back to us in St. Louis.

Q. Now, in general, what did you request the wholesalers to do?

A. We were asking for some very specific and very current and up-to-date pricing information from all markets at the same time so that we would have data to compare with previous information that we had obtained.

Q. Well, now, what specific information did you request?

Hearing Examiner Hier: That exhibit shows that, doesn't it?

Mr. Barton: Yes, and I think I can get at it in another way which will be a lot faster.

By Mr. Barton:

Q. I show you RX 144 and ask you what it is.

A. RX 144 is a photostatic copy of the completed reporting form that was sent back to us by our whole-

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saler in Fremont, Nebraska, and it is typical of the replies that came back from other wholesalers.

Q. Now, referring to — wait just a minute. I will ask my questions over here so we can look at them together. Referring to RX 144, what is the significance of the Class which is (781) contained on the form?

A. We asked each wholesaler when he listed the brands of beer that were sold in his particular market to classify each of those brands either as a national brand, as a regional brand, or as a local brand as they were commonly known and regarded in that market.

Q. And then you asked him the price?

A. The price to the retailer for two packages. First, a case of 24 12-ounce returnable bottles — and I asked you to look especially that it sales less deposit. In other words, we were getting the price of the beer and not the price for the deposit on the bottle. And we also asked them to give use the prices per case for 48 12-ounce cans packed 8 6. I might add there in some cases we couldn't get that information. There are some brands of beer that don't pack 48, 12 8 6. They average 24 12 4 6, in which case we doubled it to get a comparative figure.

Hearing Examiner Hier: How many wholesalers do you have?

The Witness: I'd rather answer your question by saying we have approximately 940 shipping points, places to which we ship beer to our wholesalers.

Now, in some cases one wholesaler might have several warehouses or shipping points.

Hearing Examiner Hier: Another thing I want to ask (782) you about. These 143-A through C and 144 — these are in September of 1955. You had already put

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out your off premise food outlet, as distinguished from tavern, brand of Busch Lager. This would impress me as getting ex post facto information after you once determined what to do with the situation.

Mr. Barton: If your Honor please, it is not the fact that Busch Lager has been put out nationally by that time. We are planning tomorrow to go into the detailed story of Busch Lager and Busch Bavarian and the only thing I will point out is the assumption that these have been put out nationally. In fact, they have been put out in selected markets and there are a number of problems connected with the markets into which they go.

Hearing Examiner Hier: All right. I'll dry up until tomorrow.

Mr. Barton: We will give you the full story.

By Mr. Barton:

Q. Now, you say you have 918 —

A. (Interposing) No, sir. We have about 940 shipping points. That includes our wholesalers and branch warehouses.

Q. Did you request each one of those shipping points to send you back a completed form similar to 144?

A. Yes, sir, we did.

Q. And how many of those did you receive back?

A. At the time we stopped our tabulation, stopped counting (783) the mail, we had replies from about 675 of them.

Q. And what percentage of your volume did those 675 out of 940 represent?

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A. They were by far the bigger, more reliable wholesalers. They represented at least 90 per cent of our volume.

Q. Now, do you have all of those completed forms with you?

A. Yes, sir. They are right over there in a package.

Q. All 675 of them?

A. Yes, sir.

Q. Now, was the survey made in part at my request?

A. Yes, sir. You asked for certain specific information. Since we were requesting information from our wholesalers, there was some additional data that we wanted to get and we put on a few more things, and I might add that all of the information that is on this reporting form, that which we put on special and that which you asked for, is very valuable to us in our day to day conduct of the activities in my department.

Q. Now, I show you RX-145-A through H.

Mr. Barton: Your Honor, I offer in evidence 143-A, B and C, and 144.

Hearing Examiner Hier: Anything additional in the record or objections?

Mr. Barton: I might say, your Honor, that this goes into a different point on the case. This is moving into the point of this so-called price differential point because the (7-4) evidences that will be going in here will be designed to show, and I submit will show, that the so-called regular differential that is alleged to exist or differential between Budweiser and other national shipping beers and regional beers is in fact a quite spotty and quite sporadic matter.

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Hearing Examiner Hier: Well, it is also to show what you did about the situation, that you found from all these thousands of statistics here —

Mr. Barton (Interposing): That is true, too, but it goes in on the other angle of the case, too.

Hearing Examiner Hier: Do you have anything besides the usual objection, any specific objections, I mean?

Mr. Mayer: Well, sir, in addition to questioning the relevance on any theory of price reduction or the price reduction complained of as being a test of the market situation, I can't see the relevance of what was done with the information received as a result of that price reduction as a defense to the price reduction itself.

Hearing Examiner Hier: Whether it is a defense or not we will get to later, but it seems to me it goes to the question of good faith. If these people claim that they were testing the market and they did nothing with the test when they found out the results thereof, you would be in here claiming they weren't testing the market, that they were robbing the roost. That is what you would be claiming. I know that.

(75) Mr. Mayer: That is my claim anyway, to begin with.

Hearing Examiner Hier: I know. But it seems to me that it is appropriate, in fact it is instructed, to let them show that they did test the market for a specific purpose and that they did something about it. In other words, what I gather from this so far spotty picture, they found out that they weren't getting the volume that they want. Whether they need it to keep solvent or just want to get more business is another question that hasn't been developed yet. They weren't getting the volume although they

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had the coverage. It is a question of how to get it. They are going to claim, of course, that they dropped their price in what they considered to be the best area to find out if price reduction rather than can reduction would do it. Apparently they came to the conclusion it would. But they don't want to change Budweiser, so they put out this—it used to be called a fighting brand or competitive brand—Busch Lager. I think it is appropriate for them to show not only that they did that but what happened when they did that. It also goes, to me, to the question of good faith. I think it is relevant on that basis.

Mr. Mayer: If the Examiner pleases, I certainly hope that Budweiser doesn't come out with another brand of beer this month because this record might never get closed, to show what they did about it as compared to what the situation was at the time they did something in St. Louis, Missouri.

(786) Hearing Examiner Hier: Well—

Mr. Barton (Interposing): All I can say, your Honor, is that the business doesn't stop because lawsuits begin.

Mr. Mayer: Well, now, lawful practice or unlawful practices.

Hearing Examiner Hier: What he is asking about is just the reverse of them, that lawsuits will never end if business doesn't.

Mr. Mayer: If I may say so, it reminds me of the inebriate who lost his watch down the street.

Mr. Barton: Let's take this off the record. I have heard it before.

Mr. Mayer: We will leave it here. I think it is a fair characterization. They asked him, What are you looking for? He said, I am looking for my watch. Where

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did you lose it? He replied, I lost it down the street. They said, what are you looking here for? Because I've got the best light.

It is very close to the defense being presented to this Examiner.

Mr. Barton: A little levity will not harm the proceeding, your Honor.

Hearing Examiner Hier: All right. I think it is relevant as what has gone in here already, and I think it is a little bit more relevant than some of the stuff that has gone in here. I am going to overrule your objection. 145-A through H (787) is admitted in the record. I shouldn't have said 145-A through H. I should have said 143-A through C, and 144.

(The papers referred to, heretofore marked for identification Respondent's Exhibits 143-A through C and 144, were received in evidence.)

Mr. Mayer: Mr. Examiner, may I inquire if the witness has all of the reports sent to him by wholesalers in response to the inquiry sent out in this survey with him?

Hearing Examiner Hier: He said so.

Mr. Mayer: May I have those?

The Witness: Right over there in that bundle.

Mr. Mayer: They are only putting in this one as a representative reply?

Mr. Barton: That is right. I didn't want to burden the record with 675 of them.

Re Mr. Barton:

Q I show you RX 145-A through H and ask you what it is.

William J. Shine, for Respondent—Direct

A. This is a chart illustration of the part of the information that we obtained from this special pricing survey. Specifically it shows the net, that is, without deposit, price to the retailer of 24 12-ounce returnable bottles. We have tabulated it on such a basis that we can show by the height of the vertical line—we show the Budweiser price. The small cross-lines intersecting the vertical lines at various points are designated as "R" or "L". The "R" will indicate the highest regional (78¢) price, the one at the top. The "R" at the bottom will indicate the lowest regional price. The "L" at the top will indicate the highest local price; the "L" at the bottom, the lowest local price. Wherever there is only one "L" or "R", it indicates that there was only one regional or local price, no high nor low.

Hearing Examiner Hier: Now, the top of the line indicates Budweiser's price.

The Witness: Net price to the retailers of Budweiser in each of these cities.

By Mr. Barton:

Q. I might ask you at that point, what was the nature of the basis for selection of the cities represented on RX 145 A et als?

A. As I have mentioned, we have in that package the reports from 675 cities, 677, something in that neighborhood. If we had plotted in this manner the replies from all of those 675 cities, the piece of paper would have been as long as a roll of wallpaper. We selected three markets from each state. We made that selection on what we think is a purely objective basis. We selected, first, the largest market in the state. Then we arranged all of

William J. Shine, for Respondent—Direct

the markets in the state in alphabetical order and we picked the first two in the alphabetical order. If one of the first two had also been the largest one, then we picked a third one in alphabetical order.

Hearing Examiner Hier: Now, wait a minute. Look (789) at 145-B, Nebraska. Omaha has the largest one, so that is first. But Fairbury and Fremont begin with "F".

The Witness: They are the first two on the list when arranged —

Hearing Examiner Hier (Interposing): You mean to tell me they haven't got a town in Nebraska whose name begins with "A", "B", "C" —

The Witness: Not where we have a wholesaler. It had to be limited to those from where we got the information.

Hearing Examiner Hier: That's right.

The Witness: Now, as you look across the first page, for example, coming across here, you see that in the first market, which is Phoenix, Arizona, the price of a case of Budweiser is \$3.70, that the highest regional is \$3.40, that the lowest regional is \$2.90, and there is a local also of \$2.00, apparently only one local price. You go over a little further to Bakersfield, California, and you find that the high regional is actually higher by ten cents than the price of Budweiser.

Re Mr. Barton:

Q. Do you know who that regional is in that case?

A. Yes, sir. In that case the regional getting it happens to be Coors, in an 11-ounce bottle.

William J. Shine, for Respondent—Direct

Q. By the way, on what basis was the "R" and the "L"—strike that. Did you take the classification, insofar as the "R" and "L" were concerned, at the wholesaler who made out the form, (790) one copy of which has been introduced here as RX 144?

A. In general we did. There was one exception. As I mentioned when we were looking at the form, we asked the wholesalers to designate each brand as "N", a national brand, "R", a regional brand, "L", a local brand. Some of the wholesalers, for a reason which I wouldn't attempt to guess on, decided to classify brands, some of them, as "P", premium brands, and so designated them on their report. Now, that was a very few reports where it happened, but if they designated a brand merely as "P", or a premium brand, if it was a regional brand we tabulated it as a regional brand because we had no way to classify, to tabulate a premium brand.

Q. As a matter of fact, those brands so classified by wholesalers as "P" were quite often Hamm's, Coors and a number of other regional brands, were they not, as well as perhaps some others?

A. Yes, sir. Very frequently they were. I would say probably the only case of a brand that was really a nationally distributed one and so mentioned was Ballantine Ale.

Hearing Examiner Hier: In 144 here I notice this fellow in Fremont, Nebraska, puts Falstaff down as a local beer. What did you do with that?

The Witness: We counted it as a local beer, your Honor. I mentioned when we were looking at the form that we asked the wholesaler to designate the beer as it was generally (791) known and regarded in that par-

William J. Shine, for Respondent—Direct

icular market. Now, this means simply that in Fremont, Nebraska, they regard Storz, Falstaff and Metz as local brands.

Mr. Barton: As a matter of fact, Falstaff has a brewery in Omaha.

The Witness: It has a brewery there and Fremont is not too far from Omaha.

By Mr. Barton:

Q. Now, I show you—is there any possibility that a high regional such as classified—a high regional as noted on 145-A would be a national brand such as Schlitz, Pabst, Blatz, etc.?

A. I don't think there would be a possibility of that in any case other than the one I mentioned of Ballantine Ale. It is possible that a wholesaler might have reported Ballantine Ale as being a regional brand, in which event we didn't change it if it was recorded as a regional in that market. We tabulated it as a regional. That is the only case I can think of where any brand that is distributed nationally might have been classified as a regional.

Q. I show you 146-A through H and ask you what they are. By the way, is 145-A-through H in? I offer 145-A through H.

Mr. Mayer: Merely so that I understand this, Mr. Shine, returning to Exhibit 145-B and the entry opposite Fremont, the highest local price, as I understand it, reflected—(792)—on there would be the \$3.05 reported price on Respondent's Exhibit 144, is that correct?

The Witness: Yes.

Mr. Mayer: And the lowest local price would be the \$2.00 price reported by Metz, reported for Metz?

William J. Shine, for Respondent—Direct

The Witness: Yes, sir.

Hearing Examiner Hier: Wait a minute. That doesn't jibe with what I've got in front of me. 145—I've got the wrong one. All right. Go ahead.

By Mr. Barton:

Q. In other words, the local, then, is Metz which has a price on both 144 and is so indicated on 145-B, as \$2.00.

A. That is correct.

Q. And the high local is Storz which has a price on 144 and is so indicated on 145-B of \$3.05.

A. Correct.

Q. And similarly, the low regional is Heilman at \$3.20, and the high regional is Hamms at \$3.25.

A. Correct.

Q. And in that market Budweiser is \$3.30.

A. Yes, sir.

Mr. Barton: Mr. Mayer, it seems to me that 145-A through H is simply a summarization, I mean a logical follow-up of 143 and 144.

Mr. Mayer: I have the same objection, I might add, (793) to 145.

Hearing Examiner Hier: I am going to overrule those objections and let them in the record.

(The papers referred to, heretofore marked for identification Respondent's Exhibits 145-A through H, were received in evidence.)

By Mr. Barton:

Q. I show you 146-A through H and ask you what they are.

William J. Shine, for Respondent—Direct

A. A chart similar to the RX 145 series but this is the price to the retailer per case of 48 12-ounce cans, packed 8/6.

Q. In general this follows the same pattern as 145, doesn't it?

A. Same identical pattern.

Mr. Barton: I offer 146-A through H.

The Witness: Same thing except larger quantity.

Mr. Barton: And different package.

Hearing Examiner Hier: And different container type.

The Witness: And different container price.

Hearing Examiner Hier: All right. Admitted into the record.

(The papers referred to, heretofore marked for identification Respondent's Exhibits 146-A through H, were received in evidence.)

Mr. Mayer: Mr. Shine, does this package include all of the returns or the returns only used in the preparation of these exhibits?

(794) The Witness: All of them.

Mr. Mayer: Thank you.

By Mr. Barton:

Q. I show you Exhibit 147-A, B and C, and ask you what they are.

A. It is a visualization of the fluctuations in differentials of price to retailer for Budweiser and other brands based on 1953, 1954 and 1955 prices, the 1955 price coming from this pricing survey.

William J. Shine, for Respondent—Direct.

Q. You mean when you say this pricing survey the big survey resting from RX 143-A, B and C?

A. Correct.

Leaving Examiner Hier: How could that be?

Mr. Barton: What was the basis for the determination of the price spread existing between Budweiser and low local brands in 1953?

The Witness: That was based on a survey which had been made in 1954.

Mr. Barton:

In April 1954?

April 1954.

Mr. Barton: Which survey, Your Honor, is not yet in evidence but will be placed in evidence tomorrow? Material was collected as a result of the sending out of RX 12 which was introduced in St. Louis. The answers to the survey (795) RX 12 have been given to the Commission. Tomorrow we will place in evidence a summary of those answers as an exhibit through another witness.

Mr. Barton:

Now, would you tell me, Mr. Shine, where the 1954 information was obtained?

A. That was obtained from the 1954 survey.

Now, would you continue with your explanation of 143-A through C is.

Yes. To read this exhibit, let us consider RX

The first line is East Hartford, Connecticut, and as in the first column of typewritten figures that in

William J. Shine, for Respondent—Direct

1953 the price spread between Budweiser and the lowest priced local brand was \$1.05. In 1954 versus 1953 that price spread was up or greater than \$1.05. In 1955 that price spread was down, or less than \$1.05. And comparing again the price that did exist, the spread that did exist in 1954 with the spread that does exist in 1955, the spread is down this year.

Now, the purpose here is merely to show the fluctuations in the spread.

Hearing Examiner Hier: What does "NL" mean?

The Witness: "NL" means that no local brands reported for the market. This is just based on Budweiser and the low local brands, and "NL" means no local brands.

Hearing Examiner Hier: And "NC"?

(796) The Witness: "NC" means no change and "NF" means no figures are available.

Mr. Barton: The code legend is up in the left-hand corner of the exhibit.

I offer 147-A through C in evidence, your Honor.

Mr. Mayer: May I inquire?

Hearing Examiner Hier: Certainly.

Mr. Mayer: In the characterization of local brands, did you accept the wholesaler's characterization of what was a local brand to him as you did in the other exhibits?

The Witness: The 1954 survey asked for the price spread between Budweiser and local brands. That was the base—that 1954 survey was the base from which this was developed.

Mr. Mayer: Did they name the local brands in that survey?

William J. Shine, for Respondent—Direct

The Witness: In some instances they did; not in all instances.

Mr. Mayer: If they did not name them, would you know whether it was a local or regional? You accepted their classification, I take it?

The Witness: Yes, sir.

By Mr. Barton:

Q. As a matter of fact, Mr. Shine, how did most of the wholesalers who received RX 143-A through C classify Falstaff, Griese Dieck Western and Griese Dieck?

(797) A. A substantial majority of the wholesalers who reported prices on those brands classified them as regional brands. There were a few — I wouldn't attempt to give any number but there were a few who classified them as locals. As I remember, they were from the places that were very close to St. Louis or very close to Omaha or very close to New Orleans where Falstaff might have had breweries.

Mr. Mayer: Usual objection, Mr. Examiner.

(798) Hearing Examiner Hier: Well, I do not think that the usual objection is tenable in this instance because this Exhibit, if I understand it correctly, goes to a dispute or a claim in the complaint that price differentials always exist between the Respondent's products and the local products.

Mr. Barton: That is right, your Honor. This Exhibit shows that a little less than the other because it is comparing with low local brands.

Hearing Examiner Hier: At any event, the objection is overruled and Exhibit 147-C is admitted in the record.

William J. Shine, for Respondent—Direct

(Respondent's Exhibit 147-C was received in evidence.)

By Mr. Barton:

Q. I show you Respondent's Exhibit 148-C and ask you what it is?

A. It is an Exhibit similar to the preceding Exhibit but based on the spread between Budweiser and the highest priced regional brands.

Examiner Hier: Hold it a minute, now.

(Discussion off the record.)

The Witness: Specifically, going back to the East Hartford Connecticut market, this shows that in 1953 the price spread between Budweiser and the highest priced regional brand was 80 cents.

In 1954 there was no change in the spread.

In 1955 there was no change in the spread, compared (799) with 1953, and in 1955 there was no change in the spread compared with 1954.

By Mr. Barton:

Q. And the chart, the Exhibit, is to be read in the same manner as was RX-147-A to C, and in exactly the same manner, and NC, NL and NF were supplied exactly the same way.

Examiner Hier: Same objection?

Mr. Mayer: Yes.

Examiner Hier: Same ruling. Respondent's 148-A to C is admitted in the record.

(Respondent's document 148 A to C was admitted in evidence.)

William J. Shine, for Respondent—Direct

By Mr. Barton:

Q. I show you RX 149 and ask you what it is?

A. It is a summary of the fluctuations and differentials which we have shown in detail on two preceding Exhibits.

It shows, for example, in the left hand column that there were 74 markets from which we had 1953¹ prices of Budweiser versus a low priced local brand.

Now, in 1954, 50 of those 74 markets that spread was up or greater. In 15 of them it was down or less and in 9 there was no change.

Now, in 1955, there were 29 markets where the spread was up or greater than it was in 1953. In 25 it was down and in three there was no change. There were 10 in 1955 and the (800) wholesalers reported there was no local brand in the market and there were seven for which, in 1955, there was no information available.

On the right-hand side we have comparable data on Budweiser versus the high-priced regional.

Q. And the bottom of the page is 1955 compared with 1954?

A. Yes.

Mr. Barton: I offer RX-149 in evidence.

Hearing Examiner Hier: The same objection?

Mr. Mayer: Yes.

Hearing Examiner Hier: Same ruling.

(Respondent's Exhibit 149 is admitted into the record.)

By Mr. Barton:

Q. Now, Mr. Shine I show you Exhibit 150 and ask you what it is?

William J. Shine, for Respondent—Direct

A. Well, it might be very facetious to say this is the largest Exhibit that we have to offer.

This series of charts shows the six 10-pack price to consumers. It shows it market by market. And, if you will look at the left-hand side, you have a solid line connecting several points and that solid line connects the highest prices at which Budweiser is sold in six 10-packs in the market.

Now, at the bottom you have another horizontal line (\$01) connecting the lowest price at which Budweiser is sold in 6 10-packs in the market.

The small crossed lines indicate the high and low locals and regionals that were sold.

As you go across the chart, a spread between the solid lines will show that in some places there was a big spread in the price of Budweiser in the 6 10-pack within the same market.

For example, right here, in Tucson, Arizona, we see that there was a low price on Budweiser of \$1.27 for 6 10-pack and a high price of \$1.75 in the same market, while right next to that, right next to Tucson, at Safford, Arizona, there was one price, \$1.30, there is no high, no low, there is only one price of Budweiser. So, the variation in the line will show the variation in prices that existed and the spread between high and low will show the spread that exists for Budweiser within the same market.

The dash lines will show the variations in the prices of locals and regionals and how that spread over the market compared with Budweiser.

Hearing Examiner Hier: Generally speaking, the more spread, the more density of population, isn't that true?

William J. Shine, for Respondent—Direct

The Witness: Your Honor, I have never attempted to summarize it on that basis. It might well be.

Mr. Barton: I offer this Exhibit.

(802) Hearing Examiner Hier: This is too big an Exhibit to expect Mr. Mayer to formulate any possible objections, if he has any now. We will take it up in the morning. I certainly would not want to check that thing in a few minutes here and I don't expect him to.

Mr. Barton: All right.

By Mr. Barton:

Q. Mr. Shine, for the purpose of the record will you please explain the significance of the legend; in other words, explain how the legend which is contained at the top of the Exhibit worked out in practice.

A. The top solid line connects the high Budweiser spread. The bottom solid line connects the low Budweiser spread.

Q. That is from market to market?

A. From market to market, if there was only one Budweiser price in the market, then it connects both because there was no high or low.

Therefore, your line right here (indicating) or reading across from your graph, from the side, will show the lowest price at which the six 10-pack of Budweiser was sold to the consumer in that market.

This point up here (indicating) will show the highest prices at which it sold. So, the difference between that and that (indicating) is the spread that existed in (803) that market on the price of Budweiser.

Q. Yes, and the line is to the left and it is not connected with something else—

William J. Shine, for Respondent—Direct

A. It is a high regional and the low regional—

Q. Whenever it is to the left—

A. It is a regional brand, up here it is high regional, and down here it is low.

Q. And whenever it is to the right?

A. It is a local brand. Here is one local (indicating) there is only one local price.

Q. And if it extends completely through—

A. The local and the regional.

Q. The local and the regional at the same prices?

A. Here (indicating) you would have a high and a low local and here is a high and a low regional.

Q. In Elko—looking at RX 150 A and looking at the line for Elko, Nevada, the line, the horizontal—the vertical line extending up from Elko, Nevada, is the line which represents the city, does it not?

A. Yes.

Q. And does the line to the left of that vertical line indicate a price of a local brand?

A. Of a regional brand.

Q. I am sorry, of a regional brand.

The lowest line represents the price of the six (804) ten-pack to consumers of the lowest regional brand?

A. The lowest price regional brand.

Q. And the highest line extending to the left of that vertical line represents the highest price regional?

A. As reported in that market.

Q. And if there is a line to the right of the vertical line, it is the lowest local?

A. It is the lowest local.

Q. And the one which is above, highest?

A. Highest reported for that market.

William J. Shine, for Respondent—Direct

Q. And in case the line extends completely through the vertical line for the city, it represents both the regional and the local price?

A. It indicates that the price of the local and the regional is the same.

Hearing Examiner Hier: And all lines that you have been speaking of are horizontal lines on the Exhibit?

The Witness: Yes.

Mr. Barton: Except the vertical line representing the city.

Hearing Examiner Hier: Well, you mentioned that.

The Witness: And excepting the connecting lines which are generally running horizontally across the page.

Hearing Examiner Hier: What were the sub-numbers of that Exhibit?

(S05) Mr. Barton: A through H. Wait a minute, that is not right—yes, H.

By Mr. Barton:

Q. I show you RX-151 and ask you what it is?

A. It is a visualization of the differentials of prices to retailers on the basis of Budweiser and regional brands for 1953, 1954 and 1955 on 24 12-ounce returnable bottles.

In this chart, we have plotted on the vertical line for each city listed across the bottom of the page, the amount of the differential, the dollars and cents amounts of the differential between the price of Budweiser and the price of a regional brand for a case of 24 12 ounce returnable bottle.

Hearing Examiner Hier: A regional brand, y—say?

The Witness: A regional brand.

Hearing Examiner Hier: Which one?

William J. Shine, for Respondent—Direct

(806) The Witness: In the 1954 survey.

The results were reported on the basis of the comparison between Budweiser and regional. It did not specify the individual brand. In some cases the brand was written in; in many cases it was not.

Now, we have plotted the 1953, the 1954 and the 1955 prices.

All of the 1953 points are connected with a solid line.

All of the 1954 points are connected with a dotted line.

All of the 1955 points are connected with a dashed line.

Now, it merely is intended to show quickly and briefly the fluctuations that you have.

Looking at this line right here, you see that there are some places—

By Mr. Barton:

Q. You say "this line." Say which line.

A. This line, which is, from the legend at the side, it means the one dollar line. We see that there are one, two, three—about half a dozen markets across there where the differential is one dollar.

At this point here (indicating), it is 80 cents. You see, there are one, two three, four, five—maybe half a dozen (807) places where the differential is 80 cents.

At this point here, which is the 60-cent line on the graph, we see that there are one, two, three, four—maybe half a dozen places where the differential is 60 cents.

We find at this point here (indicating), which is the zero line, that there were one, two, three, four, five plus—six or eight places where there is no differential, and if we find one or two instances where the differential point is

William J. Shine, for Respondent—Direct

below the base line or less than zero, meaning that a regional brand sells at a higher price than Budweiser.

Q. Now, this is based upon the—it was necessarily limited to the city, to the reporting points which were included in the 1954 survey?

A. That is correct.

Mr. Barton: Your Honor, I offer in evidence RX-151.

Hearing Examiner Hier: I will let him look at this overnight, too.

By Mr. Barton:

Q. I show you RX-152, and ask you what it is.

A. It is summary comparison of the price of Blatz versus the price for Budweiser and regional or local brands, both for 24—12-ounce bottles, and 48—12-ounce cans.

Now, if you read this Exhibit RX-152, it means that in the State of Alabama there were two markets which reported (508) prices on Blatz beer; both of those markets reported that the price of Blatz was between Budweiser and the regionals or locals in the bottle price section.

In the canned price section, it indicated also that in two markets the price of Blatz was between Budweiser and the regionals and locals.

Q. Going down to the summary at the bottom—

A. There were 120 markets that gave us prices on Blatz and the comparison between Budweiser and/or regionals and locals, and those Blatz prices.

You look at the biggest figure and we see 69 of the Blatz prices were somewhere between Budweiser and regional. You see there are some of them where the price of Blatz was below the price of regionals and locals—

William J. Shine, for Respondent—Direct

Hearing Examiner Hier: What is the significance of this testimony about Blatz?

Mr. Barton: Well, Your Honor, Blatz is allegedly—one of those that counsel has chosen to select as premium beers; he always talks about Budweiser, Miller's, Schlitz, Pabst and Blatz.

Now, then, we are showing what is happening in the marketplace in connection with one of the beers to which he has spoken, one that he has chosen to relate our prices to.

The fact is, of course, as the exhibit shows, and as the retailers who were on the stand the other day testified, (809) that the Blatz price is in some places with the regional, in some places with the national shipping brewers. This merely describes it in more regular form.

Hearing Examiner Hier: What are you claiming with reference to Blatz?

Mr. Mayer: I am not making any claim with reference to Blatz.

Hearing Examiner Hier: Is it your position that Blatz is in the same boat with Schlitz, Pabst, and Miller?

Mr. Mayer: When it is priced with Schlitz, Pabst and Miller, yes, sir; when it is priced with regional, it is in the same boat as regional; and when it is priced with local, it is in the same boat as local.

Hearing Examiner Hier: Well, it seems that there are several boats that enter into that.

Mr. Mayer: Right.

Mr. Barton: Is it your position that what is happening there is— Strike that.

I offer RX-152.

Hearing Examiner Hier: Well, since Blatz seems to be somewhat over the map, and it does not seem consistent, I

William J. Shine, for Respondent—Direct

think—perhaps we should take it in this record, although it is already swollen too badly.

(Respondent's Exhibit No. 152 was received in evidence.)

(810) Mr. Barton: Your Honor, this would seem to be a convenient time to quit, if you are so minded. I am sure that the witness' voice is getting a little husky.

Hearing Examiner Hier: All right.

We will adjourn until 9:30 in the morning.

(Whereupon, at 4:20 o'clock p.m., the hearing in the above-entitled matter was recessed, to reconvene at 9:30 o'clock a.m., Thursday, December 15, 1955.)

(811) Thursday, December 15, 1955

Met, pursuant to recess, at 9:30 a.m.

Before: Frank Hier, Hearing Examiner.

Appearances as before.

(812) P R O C E E D I N G S

Hearing Examiner Hier: On the record.

Mr. Barton: My direct examination of Mr. Shine has been completed, Your Honor.

I believe there were a couple of exhibits offered.

Hearing Examiner Hier: I want to take those up now.

Mr. Mayer, can you tell me what your reaction is to 150-A through H?

William J. Shine, for Respondent—Cross

Mr. Mayer: Mr. Examiner, I have no objection to those exhibits subject to checking the information which appears thereon.

Hearing Examiner Hier: All right, Respondent's Exhibits 150-A through H is admitted in the record.

(The papers referred to, heretofore marked Respondent's Exhibits 150-A through H for identification, was received in evidence.)

Hearing Examiner Hier: What about Exhibit 151?

Mr. Mayer: The same.

Hearing Examiner Hier: That is admitted in the record.

(The paper referred to, heretofore marked Respondent's Exhibit 151 for identification, was received in evidence.)

Hearing Examiner Hier: You may cross examine then.

(813) WILLIAM J. SHINE resumed the stand and testified further as follows:

Cross Examination by Mr. Mayer:

Q. Mr. Shine, directing your attention to Respondent's Exhibit 115-A, and more specifically to the years 1953, 1954, 1955, appearing on 115-D, would you tell us, sir, the price of Pabst to the retailer beginning in January of 1953 and any changes that were made subsequent to January of 1953.

A. So far as I know, without referring to historical records, the price of Pabst to the retailer in cases of 24,

William J. Shim: for Respondent—Cross

one returnable bottles, at the beginning of 1953 was placed in the general area of \$2.58.

In the latter part of 1953, sometime in October, it was reduced to about \$3.00.

In 1954, early in 1954, it was reduced to about \$2.75.

And in 1954, it was reduced to about \$2.35.

And were those two price reductions in 1954 got immediately following the Budweiser price reduction in 1954?

I believe that Pabst price reductions were timed a matter of a few days of the Budweiser price reductions.

Subsequent to the Budweiser price change?

I believe so.

Now, sir, as the result of the reduction in price of Budweiser did that make the price of Pabst and Budweiser approximately (\$14) in St. Louis area?

Yes, sir.

It did?

Yes.

Now, sir, examining in its entirety Respondent's Exhibits 115-A through D, is it a fair characterization to say that prior to its price reduction in July or June of 1954, it was maintaining about one and one-half percent gross package beer sales in St. Louis and St. Louis area?

Barton: What do you mean by gross?

Mayer: No, sir.

Barton: You mean total?

Mayer: Total sales of Pabst as compared to the sales of package beer.

William J. Shino, for Respondent - Cross

The Witness: For the year 1953, and for the first six months of 1954, yes, the approximate average would be about one and one-half percent.

Re Mr. Mayer:

Q. Now, sir, in order to draw any conclusions about the application of the Paost figures, or the picture as reflected on Exhibit 115, as to what happened in the Pabst sales due to a price reduction, in order to apply any of those conclusions to what might happen to Budweiser in a different market, under a price reduction, isn't it true that we would need a somewhat similar factual situation existing before we could draw any (815) conclusion from this particular exhibit.

Mr. Barton: If Your Honor please, are you finished?

Mr. Mayer: Yes.

Mr. Barton: It is a rather long question.

Mr. Mayer: This witness is an expert, Mr. Examiner.

Hearing Examiner Hier: He is an expert. You may answer.

Mr. Barton: All right.

The Witness: May I ask to have the question re-read?

Hearing Examiner Hier: Yes, indeed. Read it.

(Question read by reporter.)

The Witness: I think I could answer that question, yes, and no, and very justifiably so.

Yes, you would need similar conditions if you wanted to draw exactly comparable situations. You would not have to have exactly similar situations if you merely wanted to generalize from the results.

William J. Shaw, for Respondent—Cross

Re Mr. Mayer:

Q. Is it of any significance to you, sir, that Budweiser dropped its price first in the St. Louis area?

Mr. Barton: With respect to what?

Mr. Mayer: With respect to the conclusion which we drew from this exhibit on the direct examination.

Hearing Examiner Hier: What was that?

(S16) Mr. Barton: Which was what?

Mr. Mayer: That Budweiser might not do as well if this was not done elsewhere because Pabst did not do as well in St. Louis when this was done. The witness testified to that yesterday.

The Witness: No, sir, I don't think it would make any difference which brand reduced the price first when both brands reduced their price within a few days of each other.

Hearing Examiner Hier: Are all of these national, so-called national brands such as Pabst and Schlitz and Miller, Blatz, having the same problem as Budweiser is having about off premise sales?

The Witness: I believe that in general it could be said that they are having comparable problems. It would vary substantially from one market to another but in general everything, the same comparable problems.

Hearing Examiner Hier: Insufficient volume through food outlets and other off premise outlets not connected with the sale of liquor?

The Witness: Yes.

Hearing Examiner Hier: By the way, who got the business when the National Breweries were struck in Milwaukee in the fall of 1953? I assumed that Pabst,

William J. Shinn for Respondent: Cross

Schultz, Miller, and so on, were very nearly unobtainable in St. Louis County. Who got that business down there, the local—the regional—(S17) breweries in St. Louis or Anheuser-Busch, split up among them, or what happened?

The Witness: I think it was fairly well spread.

Hearing Examiner Hier: I suppose the figures are in the record about Anheuser-Busch sales trend during 1953, but I don't know about the others.

The Witness: Yes, sir.

Hearing Examiner Hier: Go ahead.

By Mr. Mauer:

Q. Directing your attention now, sir, to Respondent's Exhibit 119, and Respondent Exhibit 120, first of all, sir, neither of these two exhibits represent the total advertising expenditures of any of the companies appearing thereon, does it?

A. That is correct. It represents their expenditures in these four principal media.

Q. Neither one include point of sale advertising, do they, sir?

A. No, sir.

Q. And on the two exhibits, am I correct now in stating that as far as the figures, with relation to Anheuser-Busch are in the possession, or are in your possession?

A. Me personally?

Q. No, sir, your company's possession.

A. Yes, sir, correct.

(S18) Q. Now, sir, in 1954, did Anheuser-Busch engage in national advertising on television?

A. No, sir.

Q. It did not?

William J. Shine, for Respondent—Gross

A. No, sir.

Q. What does the item four thousand on Respondent's Exhibit 120-A opposite the year 1954, for Anheuser-Busch, in Washington, D. C.—what expenditure or what type of advertising does the \$4,341 represent in the television column?

A. I am not absolutely sure on the detail of the point, but my judgment is that it might represent some local or spot use of television in the Washington market. The column headings indicate for radio and television, it is both network and non-network which would include any spot, where they might have both announcements or programs of the single station in the single market.

Q. Now, sir, is that the direct cost to Anheuser-Busch?

A. Yes, sir.

Q. Dropping down to Gunther, the next entry for the year 1953 in the same column, \$173,000.

Do you know what that entails?

A. That is the information that was supplied to our advertising agency by the television stations in Washington, D. C., as to the amount of money invested by Gunther in television advertising on those stations during the year 1953.

(S19) Q. Would that include any combination program, for instance, in which the wholesaler bears part of the expense?

A. It might.

Q. But this figures, \$173,000, to your knowledge includes only the Gunther Brewing Company portion of the cost of the program?

A. No, sir, not to my knowledge.

William J. Shine, for Respondent - Cross

Q. Now, sir, Mr. Shine, if we might turn to Respondent's Exhibit 14-A, do you have a copy of that, sir?

A. Yes, I have now.

Q. Mr. Shine, do these wholesaler sales to retailers, as indicated on this particular exhibit, does that include the sales by Budweiser through its wholly owned distributors?

A. Yes, sir.

Q. It does?

A. Yes, sir.

Q. In other words, it includes all of the sales of Budweiser wholesale sales to retailers?

A. That is correct.

Q. Now, sir, directing your attention to Respondent's Exhibit 122, would you take each and every brand, sir, located on that particular exhibit, and directing our attention specifically to the years 1953 and 1954, state for me the prices of each and every one of those brands individually, first to the wholesaler?

(S20) A. I do not know.

Q. All right, sir. Now, do you have the prices of each and every one of those individual brands for 1953 and 1954, to the retailer?

A. No, sir.

Q. Now, sir, do you have the prices of each and every one of those individual brands for those years to the consumer?

A. No, sir.

Hearing Examiner Hier: Was Budweiser higher or lower than the majority of them?

The Witness: Well, the reasons I can't answer the question, Your Honor, is because there is no such thing

William J. Shine, for Respondent—Cross

as a uniform price throughout a State. These are figures on beer sales in the entire State of Texas. There is no such thing as a price to the retailer or to the consumer State-wide uniformly.

Hearing Examiner Hier: Let us take Houston.

The Witness: I could get them. I do not have them. I could get them.

Hearing Examiner Hier: All right.

By Mr. Mayer:

Q. Mr. Shine, with regard to the Texas situation as you described it yesterday, did you ever recommend to the management of your Company that it reduce its price in Texas?

A. Did I ever recommend that to the management of the company? (821) No, sir.

Q. Do you know whether or not it was ever recommended by anyone to the management that it reduce its price?

A. I do not know.

Q. Is there anybody in your organization who would know the answer to that?

A. Not to my knowledge.

Q. In your position do you make specific recommendations after analyzing markets as to what you think should be done in a particular situation?

A. In relation to price?

Q. In relation to anything, whatever you think the situation demands, sir?

A. I do in my present position, yes, sir.

Q. Were you in a position to make recommendations in 1953 and 1954?

William J. Shine, for Respondent—Cross

A. No, sir.

Q. You were not?

A. No.

Q. Who would make the recommendations that you are now making, sir, to the company?

A. There was no such position in the company in 1953 or 1954.

Q. In 1953 and 1954, then, your work was primarily just for information? You made no specific recommendations as to what you thought should be done in specific markets; is that (822) correct, sir?

A. I would make recommendations as to what should be done in certain markets but the area of my responsibility at that time was not in connection with pricing.

Q. Did you make any recommendations with regard to the Texas market?

A. No, sir.

Q. You did not.

Hearing Examiner Hier: Do you know whether or not Texas was ever under consideration as a testing ground, as a testing area?

The Witness: Well, I think, Your Honor, that every market in the country at sometime or another has been under consideration. Whether it got beyond preliminary consideration and up to final choice of either this one or that one, I don't know.

Hearing Examiner Hier: Who do you furnish your information to and to whom do you make recommendation? Mr. Barsi or Mr. Gontard or who?

The Witness: When they were with the Company some of my recommendations would be made to them, yes, sir. At the present time some of the recommen-

William J. Shine, for Respondent—Cross

dations would be made to Mr. Koalseth or Mr. Meyer, Mr. Busch. There is no one uniform management position to which I make recommendations.

By Mr. Mayer:

(S23) Q. Mr. Shine, directing your attention, sir, to Respondent's Exhibit 137-A in the left hand column, which is headed "Warehouse Locations", that would indicate any of the Safeway stores, any of the Safeway stores in that general area being served by that individual warehouse, is that correct?

A. That is correct.

Q. And it would not show how many individual Safeway stores there are being served in any of those areas?

A. No, sir.

Q. Now, sir, looking at Respondent's Exhibit 140, if you would, sir: First, I don't think it is too clear to me and I don't recall this, is this limited to package goods?

A. Yes, sir, it is headed "cases", the columns are headed "cases."

Q. Now, sir, do you know what the on premise sales of packaged goods of Falstaff was in 1953?

A. No, sir.

Q. Do you know what they were in 1954?

A. No, sir.

Q. And in 1955?

A. No, sir.

Q. Now, sir, directing your attention to Respondent's Exhibits 145 and 146, and particularly to 145—I know this may be a little tedious. Do you have all of the basic information with you from which this information was withdrawn?

William J. Shine, for Respondent—Cross

(824) A. In that little bundle.

Q. Is it in such an order that you could without too much delay pick out any particular price on this exhibit about which you are questioned?

A. Yes, sir.

Q. All right, sir.

Now, sir, starting on Respondent's Exhibit 145-A, and proceeding from left to right, sir, would you first — and we will take as an example, the first indication would be the Bakersfield market to which my question is directed. Would you proceed to take every market in which the regional beer is priced the same as or above Budweiser, name that regional beer for me, sir, state the two prices to the retailer, and state the prices to the consumer?

A. The first market that you asked about is Bakersfield, California. The price to the retailer of Budweiser is \$3.35 per case of 24, 12 ounce returnable bottles. The price of the highest priced regional brand is reported on the reporting form right here as Coors, at \$3.47.

Q. Before you leave that, Mr. Shine, the question was also directed to the price to the consumer of both of those beers.

A. The price to the consumer on Budweiser for a 6-pack of 12 ounce cans varies from \$1.20 to \$1.35.

The price to the consumer of Coors varies from \$1.23 to \$1.42.

(825) Q. Is there no price for 24 cans case of 12 ounce returnable bottles to the consumer?

A. No.

Q. Is that package offered in that area by Budweiser?

Mr. Barton: You mean the 24?

William J. Shine, for Respondent—Cross

Mr. Mayer: Yes.

The Witness: Offered, yes, sir.

By Mr. Mayer:

Q. Does that particular wholesaler reporting buy that particular package?

A. I don't know without referring to the sales records.

Mr. Barton: You mean the 24, 12 ounce?

Mr. Mayer: Returnable bottle.

The Witness: I would not know without referring to the specific records.

Mr. Mayer: All right, sir.

Mr. Barton: The form does not realize for the consumer price of 24, 12 ounce bottles as distinguished from the 6-pack. You realize that, Mr. Mayer?

Mr. Mayer: Yes.

The Witness: The next market is Blythe, California. The reported price to the retailer for Budweiser per case of 24, 12 ounce returnable bottles is \$3.45. The reported price for Coors is \$3.55. The price to the consumer for Budweiser is \$1.35. The price to the consumer for Coors is \$1.35.

(826) *By Mr. Mayer:*

Q. Is that the unit gain of the 6-pack?

A. Yes, sir. The 6-pack of 12 ounce cans.

Q. Do you have any information regarding the over the bar price of individual sales of Coors and Budweiser?

A. Yes, sir.

Q. What is that, sir?

A. The price for 12 ounce container sold on premises over the bar of Budweiser is 35 cents, and Coors is 35 cents.

Mr. Barton: Is that in Blythe?

William J. Shine, for Respondent—Cross

Mr. Mayer: That is in Blythe, California.

The Witness: Mr. Mayer, may I ask what is the next market you want the information for.

By Mr. Mayer:

Q. It would appear to be Glennwood, Colorado.

A. Glennwood Springs, Colorado, the price of Budweiser to the retailer per case of 24, 12 ounce returnable bottles, is \$3.75. The price to the retailer per case of 24, 12 ounce returnable bottles for the highest priced regional brand is Hamms at \$3.75.

The price to the consumer for a 6-pack of 12 ounce cans, Budweiser, varies from \$1.25 to \$1.50. The price of Hamms per 6-pack of 12 ounce cans varies from \$1.25 to \$1.50. The price to the consumer on premise over the bar, 12 ounce container on Budweiser, 30 and 35 cents; for Hamms, 30 and (827) 35 cents.

Q. Does that wholesaler report Coors on that exhibit, sir?

A. Yes, sir.

Q. What are the Coors prices in Glennwood Springs, Colorado?

A. At which level?

Q. At all levels.

A. Coors' price to the retailer as reported per case of 24, 12 ounce returnable bottles is \$3.25. The price to the consumer for 6-pack of 12 ounce cans varies from \$1.15 to \$1.25. The price of Coors on premise is 25 and 30 cents.

May I ask what is the next market?

Q. Anaconda, Montana.

A. Anaconda, Montana, the price to the retailer per case of 24, 12 ounce returnable bottles, Budweiser, \$3.59. The highest price regional brand, Hamms, \$3.59.

William J. Shine, for Respondent—Cross

The price to the consumer for Budweiser in the 6-pack of 12 ounce cans varies from \$1.17 to \$1.80. The price to the consumer for Hamms is not listed on the report.

The price of Budweiser over the bar, 12 ounce containers, 30 cents; Hamms 30 cents.

Q. Would you identify for us, sir, the low regional price beer in Anaconda, the lowest priced beer to the retailer?

A. The lowest regional priced beer — there are two at the same price, Braumeister and Lucky Lager at \$2.65.

Mr. Barton: The next one, I think is Las Vegas (828) under that general classification. That is in Nevada.

The Witness: Is Las Vegas, Nevada, the next one you want?

Mr. Mayer: I want to stay with Anaconda, Montana, for a moment.

By Mr. Mayer:

Q. Directing your attention to Respondent's Exhibit 146-A on which Anaconda, Montana, appears, it shows a regional priced beer.

Let's take, or let's ask this question: What is the highest priced regional beer to the retailer in Anaconda for 1948, 12 ounce cans of 8, 6-pack?

A. The highest priced regional brand is reported as Hamms at \$7.85.

Q. Does it list a retail price for Hamms, sir?

A. Not to the consumer. It lists the retail price over the bar, but does not list any off premise price.

Q. Now, sir, Las Vegas, Nevada, please.

William J. Shine, for Respondent—Cross

A. Las Vegas, Nevada, the price of Budweiser to the retailer per case of 24, 12 ounce returnable bottles, is listed as \$3.55.

The price to the consumer per 6-pack, 12 ounce cans, Budweiser, varies from \$1.15 to \$1.80.

The price of Coors varies from \$1.15 to \$1.80.

The price of Budweiser over the bar per 12 ounce container varies from 30 cents to 50 cents. The price of Coors (829) over the bar per 12 ounce container varies from 30 cents to 50 cents.

Q. Now, sir, Salt Lake City, Utah.

A. Salt Lake City, Utah, the price of Budweiser is \$3.19. The price of Coors is \$3.25.

The price of Budweiser to the consumer, 99 cents to \$1.05; Coors, \$1.09.

To the consumer on premise, Budweiser, 25 cents to 40 cents; Coors, 25 cents to 30 cents.

Q. Now, sir, would you identify for me before leaving Salt Lake City, Mr. Shine, the name of the lowest priced regional beer?

A. The lowest priced regional beer, two brands of identical prices, Lucky Lager and Eastside at \$2.13.

Mr. Barton: Eastside is the Pabst brand, isn't it?

The Witness: It is manufactured by the Pabst Brewing Company.

By Mr. Mayer:

Q. Well, now, is Eastside is a beer manufactured by Pabst but priced differently from Pabst Blue Ribbon to the retailer?

A. Yes, sir.

Q. Is it generally priced lower?

J. Shine, for Respondent—Cross

that a price competing beer that Pabst

ould you call it what?

competing beer?

did I don't understand that term.

is all right.

aps I have overlooked one of the funda-
here, but on your Exhibit 145-A, sir, in
nd corner, describing the various sym-
-exhibit, would you tell me when the lists
nds, what those brands are?

Wait a minute.

le is an expert here. If he can answer
an't, he won't.

eed any help at all.

The brand will vary from market to

vords, was a regional beer appearing
random on exhibit as of Phoenix, Ari-
x up as a local beer in, well, Billingsley,

irely possible?

n't any real consistent definition as to
beer on this exhibit, and what is a local
t?

, there is a consistent definition.

William J. Shine, for Respondent—Cross

Q. Whose definition is it, sir?

A. Each wholesaler reported and designated brands as they were generally regarded in that particular market.

Q. I am sorry. The description as to whether it is regional or local was made by the wholesaler reporting.

A. As it applies to his particular market.

Q. How many reported?

A. 675, I believe, in the tabulation.

Q. Now, Mr. Shine, on the high and low cross lines, is that merely the description of when "R" appears at the top, and then "R" appears at the bottom that that is the high regional in one instance and the low regional in the other?

A. Yes, sir.

Q. Now, sir, would you give us the information with regard to Cedar City, Utah?

A. In Cedar City, Utah, the price of Budweiser to the retailer, \$3.19; Coors, \$3.30.

The price of Budweiser to the consumer, 6-pack, six for \$1.09; Coors, six for \$1.39.

The price to the consumer on premise, over the bar, Budweiser, 25 and 30 cents; Coors 30 cents.

Q. What is the low regional beer appearing on the exhibit?

A. The low regional beer price to the retailer is Lucky (832) Lager.

Q. Now, sir, proceeding to Cheyenne, Wyoming.

A. The price to the consumer in the case of 24, 12 ounce returnable bottles —

Q. Do you mean consumer?

A. The price to the retailer, pardon me, 24 per case of 12 ounce returnable bottles, Budweiser, \$3.50; Ballantine Ale, \$3.90.

William J. Shine, for Respondent—Cross

Q. Is there a beer listed there as regional priced beer in Cheyenne, Wyoming, at a higher price than Budweiser?

A. Will you ask that question — will you repeat that question?

Q. Does your report show a beer being sold to the retailer in 24, 12 ounce returnable bottles in Cheyenne, Wyoming, at a price higher than the price that Budweiser is being sold to the retailer?

A. You mean a beer as distinguished from Ballantine Ale?

Q. Yes, sir.

A. No, there is not. Now, the price to the consumer off premise for 6-pack of 12 ounce cans Budweiser, \$1.25, Ballantine Ale, \$1.32.

The price to the consumer on premise for 12 ounce container over the bar, Budweiser, 30 cents; Ballantine Ale, 30 cents.

Q. Would you give us the information with regard to (833) Burlington, Iowa?

A. Burlington, Iowa, the price to the retailer per case of 24, 12 ounce returnable bottles, Budweiser, \$3.35; Hamms, \$3.35.

The price to the consumer, off premise, for 6-pack of 12 ounce cans, Budweiser, varies from \$1.10 to \$1.20. Hamms varies from \$1.10 to \$1.20.

The price to the consumer on premise, 12 ounce container over the bar, Budweiser, 25 and 30 cents; Hamms 25 and 30 cents.

Q. What is the low regional beer in that area?

A. The low regional beer in its price to the retailer, there are two brands listed at the same price: Falstaff and Griesedieck, \$2.75.

William J. Shine, for Respondent—Cross

Q. All right, sir.

Now, sir, proceeding to Burlington Junction, Missouri.

A. Burlington Junction, Missouri: The price of Budweiser to the retailer per case of 24, 12 ounce returnable bottles, \$3.17. The price of Hamms to the retailer is \$3.15.

The price of Budweiser off premise to the consumer for 6-pack of 12 ounce cans, varies from \$1.95 to \$1.20.

The price of Hamms, \$1.20.

The price of Budweiser on premise over the bar for 12 ounce container is 22 to 25 cents. The price of Hamms is 25 cents.

(834) Q. All right, sir. Now moving on, would you give us the information with regard to the Omaha, Nebraska market?

A. In Omaha, Nebraska, the price on the retailer per case of 24, 12 ounce returnable bottles, Budweiser, \$3.30. Old Style, \$3.30.

The price to the consumer off premise, 6-pack of 12 ounce cans, Budweiser, \$1.05 to \$1.15. Old Style from \$1.05 to \$1.15.

The price to the consumer on premise for 12 ounce container over the bar, Budweiser, 25 cents to 35 cents; Old Style 25 cents to 35 cents.

Q. And so is the manufacturer of Old Style, Mr. Shine?

A. I believe that it is manufactured by Heilman in Wisconsin.

Q. Do you find it in many markets under that name "Old Style"?

A. So far as I know, but I am not positive of it. As far as I know it is the only brand that Heilman produces. I am not sure of that but that is the only one I know of they produce.

William J. Shim, for Respondent - Cross

Q. Would you identify the lowest local priced bar to the retailer in Omaha?

A. There are two at the same price: Metz and Star Triumphant at \$2.50 to the retailer. I am sorry, there are three, Falstaff at \$2.50.

Q. Now, sir, would you proceed to Fairbury, Nebraska?

(835) A. Nebraska?

Q. Yes, sir.

A. The price of — to the retailer per case of 24, 12 ounce returnable bottles, Budweiser, \$3.25; Hamms, \$3.25.

The price to the consumer off premise, 6-pack of 12 ounce cans, Budweiser, \$1.15 and \$1.20; Hamms, \$1.15 and \$1.20.

The price to the consumer on premise per 12 ounce container over the bar, Budweiser, 25 cents; Hamms 25 cents.

Q. And is the "Falstaff" price reported there, sir?

A. No, sir.

Q. Now, sir, Tulsa, Oklahoma, if you will, sir.

Mr. Barton: Which one are you on now?

Mr. Mayer: That is 145-C.

The Witness: In Tulsa, Oklahoma, the price to the retailer per case of 24, 12 ounce returnable bottles, Budweiser, \$4.10, Carlings Ale, \$4.10.

The price to the consumer off premise for 6-pack of 12 ounce cans, Budweiser, varies \$1.33 to \$1.80. Carlings Ale varies from \$1.33 to \$1.80.

The price to the consumer on premise, 12 ounce container, over the bar, Budweiser, 30 and 35 cents; Carlings Ale, 30 and 35 cents.

Williams J. Shine, for Respondent—Cross

Re Mr. Mager:

Q. What is the highest priced beer sold to the retailer in (836) the 24, 12 ounce returnable bottle in Tulsa, Oklahoma?

A. Budweiser, \$4.10.

Q. And what is the next highest priced beer?

A. There are four brands: Falstaff, Stag, Griesedieck Brothers and Jax at \$3.41.

Q. All right, sir.

Now, Mr. Shine, if you will, will you go to Bartlesville, Oklahoma.

A. The price to the retailer per case of 24, 12 ounce returnable bottles, Budweiser, \$4.09; Hamms \$4.09.

The price to the consumer off premise, 6-pack of 12 ounce cans, Budweiser, from \$1.25 to \$1.45; Hamms from \$1.30 to \$1.45.

The price to the consumer on premise per 12 ounce container over the bar, Budweiser, 25 to 30 cents; Hamms, 25 to 30 cents.

Q. On seeking this information, Mr. Shine, have you ever made any analysis, for instance, with relation to the last report as to the number of outlets at which Budweiser is priced at 25 cents and at which Budweiser is priced at 30 cents?

A. No, sir, I have not completed the analysis of that kind on this report. I can assure you that it will be done in the regular course of business, but we have not yet done it.

Q. Now, sir, the information regarding East Chicago, Indiana. That is on Exhibit 145-D, sir.

William J. Shine, for Respondent—Cross

(837) A. In East Chicago, Indiana, the price to the retailer per case of 24, 12-ounce returnable bottles, Budweiser, \$3.60; Hamms, \$3.60.

The price to the consumer off of premise for six pack of 12-ounce cans, Budweiser varies from \$1.15 to \$1.25; Hamms from \$1.15 to \$1.30.

The price to the consumer on premise, 12-ounce containers over the bar, Budweiser 25 to 35 cents; Hamms 25 to 35 cents.

Q. Now, sir, would you give us the same information with regard to Madison, Wisconsin?

A. The price to the retailer per case of 24, 12-ounce returnable bottles, Budweiser, \$3.20; Old Style, \$3.20.

The price to the consumer off premise, six pack 12-ounce cans, Budweiser, \$1.15 to \$1.25. The others are not identified. I would presume, the way the form is prepared, that they are the same, but they are not so identified.

Budweiser price to consumer on premise per 12-ounce container over the bar 25 and 30 cents. The others are not identified, but I would presume from the way the report is completed that they would be the same.

Q. Now, sir, would you give us the same information with regard to Appleton, Wisconsin?

A. Appleton, Wisconsin; price to retailer per case of 24, 12-ounce returnable bottles, Budweiser, \$3.20; Heileman's \$3.20. And Hamms, \$3.20.

(838) Price to the consumer off premise for six pack 12-ounce cans, Budweiser from 99 cents to \$1.20; Hamms from 99 cents to \$1.20; Heileman's from 99 cents to \$1.20.

The price to the consumer on premise, 12-ounce container over the bar, Budweiser 25 to 35 cents; Hamms 25 to 35 cents; Heileman's 25 to 35 cents.

William J. Shine, for Respondent—Cross

Q. You were speaking about Heileman's then. That was Old Style, was it not?

A. Listed on the report as "Heileman's."

Q. Is that the same as "Old Style"?

A. I would not know. It is listed on the report as "Heileman's'."

Q. Now, sir, directing your attention to Respondent's Exhibit 145-E, in particular to Knoxville, Tennessee, market, would you give us the information regarding that, sir?

A. Knoxville, Tennessee. Price to the retailer per case of 24, 12-ounce returnable bottles, Budweiser, \$4.40. Ballantine \$4.40.

Price to the consumer off premise per six pack of 12-ounce cans, Budweiser \$1.44 to \$1.91. Ballantine \$1.44 to \$1.91.

Price to the consumer, 12-ounce container on premise over the bar, Budweiser 30 to 35 cents; Ballantine 30 to 35 cents.

Q. Mr. Shine, does that report identify in any fashion (839) whether that is Ballantine Ale or Beer?

A. No, sir.

Q. What do you think it is, sir?

A. I do not know. It is merely listed here as "Ballantine."

Q. In any of the reports which you have there, to your memory or from your own knowledge, do you ever remember Ballantine's beers in one market being the same price to the retailer for the same package as Budweiser?

A. I do not know, offhand.

William J. Shine, for Respondent—Continued

Q. But the exhibit has shown one instance in which ale was reported at that price, has it?

A. Yes, sir.

Q. All right, sir. Now, sir, directing your attention to Exhibit 145-F, will you give us the information with regard to Miami, Florida?

A. Miami, Florida?

Q. Yes.

A. The price to the retailer per case of 24 12-ounce returnable bottles, Budweiser, \$4.50; Ballantine ale, \$4.50.

The price to the consumer off premise for six packs of 12-ounce cans, Budweiser from \$1.27 to \$2.10. Ballantine ale from \$1.27 to \$1.80 cents.

The price to the consumer on premise per 12-ounce container over the bar, Budweiser from 30 cents to 50 cents.

Ballantine ale from 30 cents to 50 cents.

(S40) Q. Now, Mr. Shine, would you tell us the highest priced beer in price to the retailer for 24 12-ounce returnable bottles in Miami, Florida?

A. Schaefer's at \$4.50.

Q. And what is the Budweiser price, sir?

A. \$4.50.

Q. Do you consider Schaefer's to be a nationally-reported beer, a nationally-sold beer.

A. I am telling you what is on the report here submitted by the wholesaler. He lists "Schaefer" as a region beer and is so regarded in that market.

Q. I might have misunderstood you, Mr. Shine. I thought in identifying the regional in Miami you stated Ballantine ale.

A. I did. Schaefer is at the same price.

William L. Shreve for Re-question—City.

Q. All right, sir. I am sorry. Would you give us some information with regard to Daytona Beach?

A. Daytona Beach. The price to the retailer per case of 24 12-ounce returnable bottles, Budweiser, \$4.45. Ballantine ale, \$4.45.

The price to the consumer off premise per six pack of 12-ounce cans, Budweiser varies from \$1.25 to \$1.80. Ballantine ale varies from \$1.25 to \$1.80.

The price to the consumer on premise per 12-ounce container over the bar, Budweiser 25 cents to 35 cents, \$4.00. Ballantine ale from 25 cents to 35 cents.

Q. Now, sir, what is the highest priced beer in price to the retailer for 24 12-ounce returnable bottles in Daytona Beach?

A. The highest priced beer is Budweiser, \$4.45.

Q. And what is the next highest priced beer, sir?

A. The next highest priced beer per case of 24 12-ounce bottles, is a local brand, Regal at \$3.

Q. All right, sir. Now, would you give us the same information with relation to Fort Lauderdale, Florida?

A. The price to the retailer per case of 24 12-ounce returnable bottles, Budweiser, \$4.50. Ballantine ale \$4.50. Schaefer \$4.50.

The price to the consumer for six pack of 12-ounce cans, Budweiser from \$1.27 to \$1.80. Ballantine ale from \$1.27 to \$1.80. Schaefer from \$1.27 to \$1.80.

The price to the consumer on premise per 12-ounce container over the bar, Budweiser 30 cents to 40 cents, Ballantine ale from 30 cents to 40 cents. Schaefer from 30 cents to 40 cents.

Q. Now, sir, would you give us the information with relation to Atlanta, Georgia, sir?

William J. Shine, for Respondent—Cross

A. The price to the retailer per case of 24, 12-ounce returnable bottles, Budweiser \$4.63; Carling's \$4.62.

The price to the consumer off premise six pack of 12-ounce cans, Budweiser, \$1.70 to \$1.80. Carling's \$1.70 to (\$2) \$1.80.

Price to the consumer on premises, 12-ounce container over the bar, Budweiser 33 cents to thirty-five cents; Carling's 33 cents to thirty-five cents.

Q. Now, sir, reporting that — does that report state whether that is Carling's beer or ale?

A. No, sir; it just lists "Carling's."

Q. What do you think it is?

A. I do not know.

Q. Now, sir, would you proceed to Charleston, South Carolina?

A. Charleston, South Carolina. The price to the retailer per case of 24, 12-ounce returnable bottles, Budweiser, \$4.90. Ballantine \$4.90.

The price to the consumer per six pack of 12-ounce cans, Budweiser, \$1.50 and \$1.55. Ballantine, \$1.50 and \$1.55.

Price to the consumer on premise 12-ounce container over the bar, Budweiser 30 cents; Ballantine 30 cents.

Q. Is there any indication on that report, Mr. Shine, whether that is Ballantine ale or Ballantine beer?

A. None at all. It merely lists "Ballantine."

Q. What do you think it is, sir?

A. I do not know.

Q. I did not ask you if you knew, sir. I said, what do you think it is?

A. I have no idea what it is.

(843) Q. You have no indication at all that would indicate what that was, ale or beer?

William J. Shine, for Respondent—Cross-examination.

A. No, sir.

Q. Or any conclusions to draw from it, whether it was ale or beer?

A. No, sir.

Q. Have you ever found in any of these exhibits, in the preparation of them, the sale of Ballantine's Beer at the same price as Budweiser to the retailer for the same package?

Mr. Barton: I think that same question was asked about ten minutes ago.

The Witness: I do not recall.

Hearing Examiner Hier: This is a different locality.

The Witness: I do not recall any.

Mr. Mayer: All right.

Hearing Examiner Hier: How much more of this do you have?

Mr. Mayer: We have three more exhibits.

Hearing Examiner Hier: Very well, proceed.

By Mr. Mayer:

Q. Now, sir, direct your attention to exhibit 145-G, Mr. Shine, and in particular to the State of New Jersey and the Kearny branch.

A. The price to the retailer per case of 24 12-ounce returnable bottles, Budweiser, \$3.68. Foxhead, \$3.78.

(844) The price to the consumer off-premise six-pack of 12-ounce cans, Budweiser from 99 cents to \$1.23. Foxhead Ale or Foxhead from \$1.19 to \$1.23.

The price to the consumer on-premise, 12-ounce container over the bar, Budweiser, 20 to 35 cents; Foxhead, 20 to 35 cents.

William J. Shine, for Respondent's Cross.

Q. Does that exhibit indicate, Mr. Shine, whether that is Foxhead Beer or Ale?

A. No.

Q. Is there such a thing as "Foxhead Beer"?

A. Yes, sir.

Q. There is?

A. Yes, sir.

Q. That was a slip of the tongue, I take it?

A. Yes, sir.

Hearing Examiner Hier: Is there such a thing as "Foxhead Ale?" I have never heard of it.

The Witness: Not to my knowledge.

Hearing Examiner Hier: I think it is beer—no, no ale. I do not think they make ale in Wisconsin.

Mr. Mayer: I do not know.

The Witness: I—offhand, I do not know of any brewery that does.

By Mr. Mayer:

Q. Now, sir, looking at Respondent's Exhibit 145-H, (845) particularly to the Waterville, Maine, location.

A. Waterville, Maine, the price to the retailer per case of 24 12-ounce returnable bottles of Budweiser, \$4.11; Haffenreffer, \$4.11.

Price to the consumer off-premise, six-pack of 12-ounce cans, Budweiser \$1.47; Haffenreffer does not produce in cans.

Budweiser, price to the consumer on-premise, 12-ounce container over the bar, 35 to 50 cents. Haffenreffer, 30 to 50 cents.

William J. Shine, for Respondent—Cross

Q. Do you know where that particular brand is made, sir?

A. I am quite certain it is made in Massachusetts. I do not know the name of the city.

Mr. Mayer: That concludes the examination with regard to this particular exhibit.

Hearing Examiner Hier: I presume that you have more cross examination with regard to other exhibits. Are you through with the witness?

Mr. Mayer: No, sir.

Hearing Examiner Hier: Let us take a five-minute recess.

(A short recess was taken.)

(846) Hearing Examiner Hier: All right.

By Mr. Mayer:

Q. Now, Mr. Shine, with regard to Respondent's Exhibit 146-A through -H, was the information appearing on that exhibit taken from the same reports as the information appearing on Respondent's Exhibit 145?

A. Yes, sir.

Q. Now, Mr. Shine, the heading of the exhibit is "Price to Retailer 48 12-ounce cans of 8 six-packs."

In the sale of Budweiser is the 48 12-ounce 8 six-pack carton a popular item in sale to the consumer?

A. The six-pack is a very popular item in sale to the consumer. The original carton of 48 is seldom sold to the consumer.

Q. Now, sir, would you proceed to give us the same information which you gave us in relation to Exhibit 145 concerning the various market areas indicated on Ex-

1. Shine, for Respondent—Cross

Q sir, starting with Los Angeles, Cali-

A Why don't you start with Phoenix, ser?

Q, starting with Phoenix, Arizona.

A retailer per case of 48 12-ounce cans—Pilsener \$7.52; Coors \$7.52—do you want—check price, please, sir.

A same as I gave you before?

Q If it is only in relation to cans in this

A gave you before was cans.

Q, sir. You do not sell the six-pack non-alcoholic bottle?

A

Q proceed to Los Angeles, California, under Hier: Los Angeles is a manufacturing plant?

A Yes.

Q before we go on, I do not believe in Phoenix, Arizona, I do not believe you did check price.

Q You didn't ask for him to start there, I asked him to start at Bakersfield, Cali-

William J. Shine, for Respondent—Cross

Mr. Mayer: I know that, and that is the reason I am asking him to go back and give us the price to the consumer.

The Witness: Phoenix, Arizona, the price of Budweiser six-pack of 12-ounce cans to the consumer off-premise \$1.25; Coors \$1.25; price to the consumer on-premise, (848) 12-ounce container over the bar, Budweiser 35 and 40; Coors 35 and 40.

By Mr. Mayer:

Q. All right, sir.

Now, would you give us the information with relation to the Los Angeles, California, market.

A. Los Angeles, California, Budweiser price to the retailer, 24 12-ounce returnable bottles, \$3.27.

Mr. Barton: This is for cans, is it not?

The Witness: Pardon me.

By Mr. Mayer:

Q. This is for 48 12-ounce cans, 8 six-pack.

A. I am sorry. Price of Budweiser per case of 48 12-ounce cans packed eight six, \$7.28; Coors, \$7.50.

Do you have the consumer prices on that?

Q. No, sir; we have not.

A. The price to the consumer off-premise six-pack of 12-ounce cans Budweiser, \$1.19; Coors \$1.23.

Q. All right, sir.

Now, would you give us the information with relation to Bakersfield.

A. Price to the retailer per case of 48 12-ounce cans packed eight, six, Budweiser, \$7.38; Coors, \$7.60.

William J. Shine, for Respondent—Cross

Do you have consumer prices?

Q. We have that, sir, for Bakersfield.

(849) Would you give us the information regarding the price to the retailer at Blythe?

A. Case of 48 12-ounce cans packed eight six, Budweiser, \$7.50; Coors, \$7.50.

Q. And we have the retail price there, too, sir.

A. You have got it?

Q. Yes, we have, sir.

Now, Mr. Shine, with relation to California, I notice these are reports from the wholesalers, is that correct, sir, as the basis of this information?

A. Yes, sir.

Q. How many wholesalers does Anheuser-Busch have in California?

A. I believe we have about thirty or thirty-five.

Hearing Examiner Hier: Why do you have wholesalers in Los Angeles when that is a producing plant? I would think you would sell directly there.

The Witness: We don't have a wholesaler in Los Angeles; we have our home branch in Los Angeles. We got the prices from our branches just as we got them from our wholesalers.

Hearing Examiner Hier: I see.

By Mr. Mayer:

Q. Now, Mr. Shine, would you give us the information with regard to Anaconda, Montana, sir?

(850) A. Price to retailer per case 48 12-ounce cans packed eight six, Budweiser, \$7.90; Hamm's \$7.85.

Q. All right, sir. I think we have the other information with regard to Anaconda.

William J. Shine, for Respondent—Cross

Mr. Barton: I don't think so.

Mr. Mayer: Yes, we have.

Mr. Barton: All right.

By Mr. Mayer:

Q. Now, sir, let's proceed to Las Vegas, Nevada, please, sir.

A. Yes, sir. Budweiser \$7.65; Coors \$7.70.

Q. All right, sir.

Now, would you proceed to Salt Lake City, Utah, please, sir.

A. Budweiser \$6.86; Coors \$7.40.

Q. I notice the notation opposite Salt Lake City of 10-ounce. Would you explain that, sir?

A. Yes, sir. In Utah we do not have in Budweiser any 12-ounce packages at the present time.

Q. Then with regard to this exhibit it is a comparison with 10-ounce cans of Budweiser to the price of 12-ounce cans of Coors; is that correct?

A. That is correct; 12-ounce cans of Coors, that is correct; 11-ounce bottles of Coors.

Q. But on this exhibit it is related only to 12-ounce cans?

(51) A. Yes, sir.

Q. Now, sir, would you proceed to the Cheyenne, Wyoming, market, please, sir.

A. Budweiser \$7.50; Ballantine ale \$7.86.

Q. I think we have the other information with regard to Cheyenne, Mr. Shine.

What is the highest priced beer sold to the retailer in the 48 12-ounce packages in Cheyenne?

William J. Shine, for Respondent—Cross

A. Budweiser, Hamms, Blatz, Millers, Pabst, Schlitz, all at the same price, \$7.50.

Q. They are, sir.

Now, sir, would you give us the same information with relation to Des Moines, Iowa, on the Exhibit 146-B, sir?

A. Budweiser, \$7.40; Hamms \$7.38.

Q. Would you give us the other information, sir, with regard to Des Moines; we do not have that.

A. Price to the consumer off-premise six-pack 12-ounce cans Budweiser \$1.10 to \$1.15; Hamms \$1.09 to \$1.13; price to the consumer on-premise, 12-ounce containers over the bar, Budweiser 20 to 35 cents; Hamms 20 to 35 cents.

Q. Now, sir, would you give us the same information with regard to Britt, Iowa.

A. Budweiser \$7.40; Old Style Lager \$7.38.

Q. Would you give us the other information, too, sir; we don't have it.

(852) A. Price to consumer off-premise, six-pack of 12-ounce cans, Budweiser \$1.09 to \$1.25; Old Style Lager \$1 to \$1.25; consumer price on-premise, 12-ounce container over the bar, Budweiser 25 cents; Old Style Lager 25 cents.

Q. Now, sir, would you give us the information with regard to Burlington, Iowa.

A. Budweiser \$7.29; Hamms \$7.28.

Q. Now, sir, would you proceed to Brainerd, Minnesota, and give us the information with regard to that.

A. Which one?

Q. Brainerd, B-r-a-i-n-e-r-d.

A. Budweiser \$7.40; Hamms, Pfeiffer and Grain Belt, \$7.40.

William J. Shine, for Respondent—Cross

Q. Would you give us the other price information?

A. Price to the consumer off-premise six-pack of 12-ounce cans, Budweiser, \$1.15 to \$1.25; Hamms, \$1.10 to \$1.20; Pfeiffers \$1.10 to \$1.20; Grain Belt, \$1.10 to \$1.20; price to the consumer on-premise, 12-ounce containers over the bar, Budweiser 25 to 35 cents; Hamms 25 to 30; Pfeiffers, 25 to 30; Grain Belt, 25 to 30.

Q. Now, Mr. Shine, would you tell us approximately how many wholesalers in Minnesota distribute Budweiser?

A. I would say possibly fifteen to twenty.

(853) Q. Now, sir, would you tell us the method of selection of these three particular wholesaler reports to portray on this particular chart as opposed to any others in that group?

A. The method of selection for the cities has been the same on all of the charts. We selected, first, the largest market in the state; second, we selected—we arranged all of the markets in the state in alphabetical order, and we selected the next two in alphabetical order in the event that the largest one was in the first three.

If the largest one was not in the first three, then we took the first two in alphabetical order.

Q. Did you make that selection after you had analyzed all of the reports from the wholesalers?

A. No, sir.

Q. Prior to analyzing them?

A. Yes, sir.

Q. Now, Mr. Shine, if we could proceed to Burlington Junction, Missouri, please, sir.

A. Price to the retailer per case of 48 12-ounce cans packed 8/6, Budweiser \$7; Hamms \$6.98.

William J. Shine, for Respondent—Cross

Q. All right, sir.

Now would you proceed to the Omaha, Nebraska, market, please, sir.

A. Budweiser \$6.98; Old Style and Hamms \$6.98.

Q. Would you give us the information with relation to the (854) Falstaff price in Omaha, sir, for the same package.

A. \$6.50.

Q. All right, sir.

Now, would you proceed to Fairbury, Nebraska.

A. Budweiser \$7.10; Hamms \$7.10.

Mr. Barton: I am sorry, I didn't get that.

The Witness: Budweiser \$7.10; Hamms \$7.10.

By Mr. Mayer:

Q. Now, sir, would you proceed to the Bismarek, North Dakota, area.

A. Budweiser \$7.92; Hamms, \$7.90.

Q. I do not believe we have the other information, sir, with regard to Bismarek.

A. Budweiser prices off-premises for 6-pack of 12-ounce cans, Budweiser \$1.25 to \$1.60; Hamms from \$1.25 to \$1.60; prices to the consumer on-premise 12-ounce container over the bar, Budweiser 25 and 30 cents; Hamms 25 and 30 cents.

Q. Would you proceed to give us the same information with regard to Rapid City, South Dakota, sir.

A. Budweiser, \$7.60; Hamms, Storz, Old Style, \$7.60.

Q. Are there two labels of Storz beer, sir?

A. I believe there are.

Q. What particular label was that reported on?

A. I don't know. It just says Storz.

William J Shine, for Respondent—Cross

Q. Is there only one Storz beer reported on that wholesaler's (855) report?

A. This one?

Q. Yes, sir.

A. Yes, sir.

Q. Would you give us the other information, sir, with regard to the consumer prices in Rapid City?

A. Off-premise 6-pack, 12-ounce cans, Budweiser from \$1.50 to \$1.80; Hamms from \$1.50 to \$1.80; Storz from \$1.50 to \$1.80; Old Style \$1.50 to \$1.80.

Budweiser on-premise, 12-ounce containers over the bar, from 25 cents to 50 cents; Hamms from 25 cents to 50 cents; Storz from 25 cents to 35 cents; Old Style from 25 cents to 35 cents.

Q. Now, sir, with relation to Respondent's Exhibit 146-C, would you give us the same information with relation to Tulsa, Oklahoma.

A. Budweiser, \$8.70; Carling Ale, \$8.70.

Do you need the consumer prices?

Q. No, sir; we have that in Tulsa.

What was the highest priced beer to the retailer for that particular package in Tulsa, Oklahoma?

A. \$8.70

Q. What beer was that, sir?

A. Budweiser, Schlitz, Miller, Pabst.

Q. What was the next highest priced beer to the retailer (856) other than that group?

A. Falstaff, Stag, GB, and Jax, \$7.80.

Q. Now, sir, would you direct your attention to the Bartlesville, Oklahoma, market.

A. Budweiser, \$8.74; Hamms \$8.74.

Q. All right, sir.

William J. Shine, for Respondent—Cross

Directing your attention to Respondent's Exhibit 146-D, would you give us the same information with relation to Chicago, Illinois.

A. Through our local branch in Chicago, Illinois, Budweiser \$7.65; Hamms \$7.65.

Do you need the other information?

Q. Yes, sir; we do not have it.

A. Price to the consumer off-premise, 6-pack of 12-ounce cans, Budweiser \$1.05 to \$1.25; Hamms \$1.05 to \$1.25; on-premise, 12-ounce containers over the bar, Budweiser 25 to 40; Hamms, 25 to 40.

Q. From the report of the Chicago wholesaler, Mr. Shine, as I understand it, then, Budweiser is not sold for more than 40 cents per 12-ounce bottle over the bar in Chicago or at least in the area served by your Chicago branch?

A. The report reads, "Two per cent of the outlets selling for 40 cents and over."

Q. How does the report read on the Hamms' 40-cent maximum price?

(857) A. "Two per cent selling at 40 cents and over."

Q. And is that generally true with the other maximum prices that you have given us on this exhibit and on the other exhibit?

A. It is true on this exhibit, also for Schlitz, for Pabst, and for Miller. They list all of them as having 2 per cent of the outlets sell for 40 cents and over.

Q. All right, sir.

Now, would you give us the same information with regard to East Chicago, Indiana.

A. Budweiser \$7.80; Hamms \$7.80.

Do you need the consumer prices?

William J. Shine, for Respondent—Cross

Q. No, sir; we do not, not in East Chicago.
Now, sir, with relation to Madison, Wisconsin.

A. Budweiser \$7; Old Style \$6.98.

Q. I am sorry, I did not get that. Budweiser at \$7,
and Old Style—

A. At \$6.98.

Q. What is the regional beer appearing on the chart
that is sold at more than \$7 for 48 12-ounce cans?

A. I am sorry. Blatz is listed as a regional beer
selling at \$7.08.

Q. Now, sir, would you give us the same information
with relation to Appleton, Wisconsin.

A. Budweiser at \$7.10; Heileman's \$7.10; Hamms at
\$7.10.

(858) Q. Directing your attention now, sir, to Re-
spondent's Exhibit 146-E, sir, in particular to the Knox-
ville, Tennessee market, would you give us the information
with relation to that.

A. Budweiser \$9.28; Tempo \$9.28; Fehr's \$9.28; Bal-
lantine, \$9.28.

Q. I am not familiar with Tempo, Mr. Shine. Where
is that manufactured?

A. I haven't any idea.

Q. It is classified by that particular wholesaler, though,
as a regional beer; is that correct, sir?

A. Yes, sir.

Q. Where is Fehr's manufactured?

A. Louisville, Kentucky.

Q. And that has the same classification, I take it, as a
regional beer on that particular—

A. Yes, sir.

William J. Shine, for Respondent—Cross

Q. Is the information there regarding Ballantine's just the name "Ballantine?"

A. Just Ballantine's.

Q. Now, sir, would you give us the same information in relation to Miami, Florida.

A. Budweiser, \$9.30; Ballantine Ale \$9.30; Schaefer \$9.30.

Q. Would you give us that information, sir, with relation to Daytona Beach?

(859) A. Budweiser, \$9.20; Carling's Ale, \$9.20; Ballantine Ale \$9.20.

(860) Q. Now, sir, what was the highest priced beer to the retailer in that particular package in Daytona Beach?

A. Budweiser \$9.20; together with Schlitz, Miller's High-Life, Pabst, all at the same price, \$9.20.

Q. What was the next highest priced beer?

A. Schmidt's, \$8.12.

Q. Now, sir, would you give us the information with relation to Fort Lauderdale?

A. Budweiser, \$9.30; Ballantine, \$9.30; Schaefer's \$9.30.

Q. Would you give us the same information with regard to Atlanta, Georgia.

A. Budweiser, \$9.86; Carling's, \$9.86.

Q. Now, sir, would you direct your attention to Charleston, South Carolina.

A. Budweiser, \$10.30; Ballantine, \$10.30.

Q. As I understand it, on that particular report, the information is merely with relation to Ballantine, it does not describe either Ballantine Beer or Ballantine Ale?

A. Just the word "Ballantine" is typed in here.

William J. Shine, for Respondent—Cross

Q. Did it make any difference to you, Mr. Shine, in preparing this exhibit whether it was ale or beer?

A. No, sir.

Q. Now, sir, directing your attention to 146-G, would you give us the information regarding the Kearny branch, New Jersey.

(S61) A. Budweiser, \$7.84; Fox Head, \$7.84.

Q. Now, sir, directing your attention to Respondent's Exhibit 146-H, would you give us the information, sir, with regard to Cumberland Hill, Rhode Island.

A. Budweiser, \$7.68; Ballantine Ale, Carling's Ale, \$7.70.

Q. Are those both reported in that instance, Mr. Shine, as Ballantine Ale and Carling's Ale?

A. Yes, sir.

Q. What is the highest priced regional beer reported by that wholesaler for that particular package?

A. Ruppert at \$6.84.

Q. Would you give us the off-premise and consumer prices for that particular—

A. Consumer price off-premise six-pack of 12-ounce cans, Budweiser, from a dollar to \$1.30; Ballantine Ale from a dollar to \$1.30; Carling's Ale, a dollar to \$1.30; Ruppert, a dollar to \$1.20.

On-premise, 12-ounce containers over the bar, Budweiser, 25 cents to 40 cents; Ballantine Ale and Carling Ale, 25 cents to 40 cents; Ruppert, 25 cents to 40 cents.

Mr. Mayer: Mr. Examiner, may we have just a few minutes before we start on this particular exhibit?

Hearing Examiner Hier: All right; we shall suspend for a few minutes. Are you about through with this witness?

William J. Shine, for Respondent—Cross

Mr. Mayer: No, sir.

(862) (A short recess was taken.)

By Mr. Mayer:

Q. Now, sir, directing your attention, Mr. Shine, to Respondent's Exhibits 147 and 148, does the information as it appears on 147 and 148 with relation to 1955 prices come from the same wholesaler reports that were used in making Respondent's Exhibits 145 and 146?

A. Yes, sir.

Q. Where was the information gathered with relation to the 1954 prices?

A. The information in relation to the 1954 prices was obtained from the reports of a survey that had been made in May of 1954.

Q. Was that survey also the basis for the prices appearing on this exhibit with relation to 1953?

A. Yes, sir.

Q. All right, sir.

If you would, let us select the information appearing on Respondent's Exhibit 147-A and 148-A with relation to Washington, D. C., sir. Would you tell us, or do you have the figures with you, since there is no change, what brand that is that was compared to Budweiser in determining a \$1.06 price spread?

Mr. Barton: Mr. Mayer, rather than waste time, why don't we go on to the next, and we will look for the District of Columbia.

(863) Hearing Examiner Hier: What is that?

Mr. Barton: Rather than waste time, let us go on.

The Witness: At the moment I cannot lay my hands on the District of Columbia report.

William J. Shine, for Respondent—Cross

Mr. Barton: It is just one sheet, and it may be mixed up in those folders, because there may not have been an extra folder for it.

Hearing Examiner Hier: Supposing he locates it during the lunch recess; go on with the next question.

Mr. Mayer: All right, sir.

By Mr. Mayer:

Q. Mr. Shine, in comparing Respondent's Exhibits 147 and 148 and, in particular, 147-A and 148-A, I notice that in many instances the price spread between Budweiser and the high regional brand is the same as the price spread between Budweiser and the low local brand.

Does that mean, sir, that the price to the retailer of the lowest local brand in those particular areas was the same price to the retailer as the highest regional brand in those areas?

A. Yes, sir.

Q. It does.

Now, sir, generally, Mr. Shine, do local regulations or state regulations or county regulations affect this pricing structure in that the price to the retailer might be set by (864) local statute?

A. I don't know of any instance where a price is fixed by local statutes; no, sir.

Q. Well, sir, let us examine then carefully the Maryland situation, in Region Two, as it appears on Respondent's Exhibit 147 and 148 with relation to Baltimore and Upper Marlboro, and the information appearing on 147 and 148: how many wholesaler reports are entailed in making up that particular information?

A. Two.

William J. Shine, for Respondent—Cross

Q. One for Baltimore and one for Upper Marlboro?

A. Yes, sir.

Q. How many wholesalers in the State of Maryland offer Budweiser for sale to retailers?

A. I would say approximately ten.

Q. Would you mind, sir, extracting those two particular wholesaler reports in Baltimore, Maryland, and Upper Marlboro.

Now, sir, as far as the price information is reported there, by brand, would you give us, first, the prices reported to the retailer in Baltimore, and then the prices reported by the—I mean reported by the wholesaler in Baltimore, and then the price reported by the wholesaler in Upper Marlboro.

Hearing Examiner Hier: What price?

Mr. Mayer: For the beers appearing thereon.

Hearing Examiner Hier: What price?

Mr. Mayer: The price as reported to him by the (865) wholesaler.

Hearing Examiner Hier: For this six-pack?

Mr. Mayer: Well, actually, on this—well, 24 12-ounce returnable bottles in the first instance.

The Witness: In Baltimore, Maryland, the price to the retailer per case was 24 12-ounce returnable bottles, was \$2.58 for local brands, and \$2.62 for the national brands.

By Mr. Mayer:

Q. Are there any other prices reported by that wholesaler?

A. No, sir.

Q. Now, sir, do you have the price to the retailer on that or on those particular exhibits?

A. I have just quoted to you the price to the retailer.

William J. Shine, for Respondent—Cross

Q. I am sorry, I mean prices to the consumer.

A. Yes, sir.

Q. Would you examine the price to the consumer of Budweiser in the off-premise six-pack cans as related to the other beer prices for six-pack cans.

A. Budweiser prices off-premise for six-pack of 12-ounce cans vary in Baltimore, Maryland, from \$1.15 to \$1.35—I am sorry, from \$1.15 to \$1.50; the local brands vary from 90 cents to \$1.30.

Q. Would you give us that information now as to Upper Marlboro, please, sir.

A. In Upper Marlboro, Maryland, price of local brands to (866) the retailer, 12-ounce—24 12-ounce returnable bottles, \$2.55; price of regional brands, \$2.55; price of national brands, \$3.65.

Q. Excuse me, sir, is there no variance there at all between the price of national brands? Are they all \$3.65?

A. Budweiser, \$3.65; Schlitz, \$3.65; Pabst, \$3.65; and Miller's, \$3.65.

Q. I take it there is no variation in the regionals either? They are all priced at \$2.55?

A. There are three regionals, Busch, Ballantine and Carling's, all at \$2.55. There are five locals, Gunther, National, Valley Forge, Old German, and Christian Heinrich, all at \$2.55.

(867) Q. As I understand it, Mr. Shine, then there are two prices, \$3.65 and \$2.55?

A. Yes, sir.

Q. There is no variation from those prices?

A. That is correct, in the price to the retailer.

Q. Now, sir, do you have the prices to the consumer?

A. Yes, sir.

William J. Shine, for Respondent—Cross

Upper Marlboro, Maryland, price to consumer off-premise, six-pack of 12-ounce cans, Budweiser from \$1.20 to \$1.35. That same price scale applies to the other three listed national brands. All of the local brands and all of the regional brands, 95 cents to \$1.15. Price to consumer on-premise, 12-ounce container over the bar, Budweiser and the other national brands from 20 to 35 cents; all of the local and regional brands from 15 cents to 30 cents.

Hearing Examiner Hier: He now has Washington, D. C.

Mr. Mayer: All right, sir.

Hearing Examiner Hier: What did you want from him on that?

Mr. Mayer: I wanted to know, sir, what brands in the make-up of Respondent's Exhibit 147-A is the low local brand selected to arrive at \$1.06 as a price spread between Budweiser and the low-local brand.

The Witness: There are four local brands listed (S68) here all at the same price: Gunther, National, Valley Forge, and Old Georgetown, \$2.61; Budweiser listed at \$3.67.

By Mr. Mayer:

Q. All right, sir,

Now, in the no-change notations appearing on Respondent's Exhibits 147 and 148 that means, as I take it, that the difference, the spread, was not changed although the price might have been changed?

A. That is correct.

Q. Now, sir, what is the high regional brand reported by the branch, which is priced at a difference of \$1.00 when compared with Budweiser?

A. Ballantine beer.

William J. Shine, for Respondent—Cross

Hearing Examiner Hier: Have you reached a convenient stopping point?

Mr. Mayer: Yes, sir; I think so.

Hearing Examiner Hier: We will be back at 1:40, sir.

(Whereupon, at 12:10 p.m., a recess was taken until 1:40 p.m., this day.)

(869) AFTERNOON SESSION

1:35 p.m.

Hearing Examiner Hier: On the record.

WILLIAM J. SHINE resumed the stand and testified further as follows:

Cross Examination by Mr. Mayer:

Q. Now, Mr. Shine —

Mr. Barton: Are you starting? I am sorry. I didn't know you were starting.

By Mr. Mayer:

Q. Directing your attention again to Respondent's Exhibits 147-A and 148-A, would you state for us, sir, with relation to Albany, New York, on Respondent's Exhibit 147-A, the name and price of the low local brand which was compared to the Budweiser price to reach the spread indicated on that exhibit.

A. In Albany, New York?

Q. Yes, sir.

A. The low local brand is Hedrick, at \$2.55, Budweiser, \$3.70.

William J. Shine, for Respondent—Cross

Q. Yes. Now, sir, what was the high regional brand as it appears on 148, the difference in price being 95 cents between it and Budweiser?

A. The high regional brand, Ballantine, \$2.78; Budweiser, (870) \$3.70.

Q. Is that just listed as "Ballantine", sir?

A. Just listed as "Ballantine."

Q. In Albany, are there regional brands whose prices are less than Ballantine's?

A. Yes, sir.

Q. And would that indicate, then, a larger spread between the lower regional brands and the Budweiser price?

A. It would be a slightly larger spread. The price for another regional brand, Genesee, is \$2.73, against Ballantine's \$2.78, would make a difference of .05 cents.

Q. Now, sir, on the same market, what is the high local brand price?

A. The high local—the high local brand price is \$2.73 for Fitzgerald, Doebler and Schaefer.

Q. Now, in other words, as I understand the two exhibits then, there are instances in which the difference in price between Budweiser and the low local brands may be less than the difference in price between Budweiser and some of the regional brands?

A. Yes, sir.

Q. Now, sir, with relation to Respondent's Exhibits 147 and 148, do you recall any instance in which the price of any local brand, so termed by that particular wholesaler, was the same to the retailer as the price of Budweiser?

(871) A. On the 1955 prices?

William J. Shine, for Respondent—Cross

Q. Yes, sir.

A. I do not know. I have not checked the replies for that information.

Q. Mr. Shine, would you again give us, if you would, sir, what your conclusions are as to the percentages of the beer today being consumed on premise and off premise?

A. Industry-wide?

Q. Industry-wide, yes, sir.

A. My judgment is industry-wide that something in the general area of two-thirds of the beer is consumed off premise.

Q. Now, sir, in your considered opinion, what would be the percentage of the beer consumed on premise that would be packaged beer?

A. I would say something between ten percent and 15 percent of all of the beer consumed is packaged beer consumed on premise.

Q. In other words, I take it then of the third of the beer being consumed on premise, as to the whole of the beer consumption, of that third approximately 80 to 90 percent would be draft beer?

A. No, sir. It would not be that high in percentage.

Q. What would your estimation be, sir, of it?

A. Well, if we assume that, let us for the purposes of (872) discussion in round numbers—let us say that 65 percent of the beer is consumed off the premise. That leaves 35 percent to be consumed on premise.

If ten percent of all of the beer that is consumed is packaged beer consumed on premise, we now have accounted for 75 percent of the beer, leaving the other 25 percent of the beer which is draft consumed on premise.

William J. Shine, for Respondent—Cross

Therefore, we have 25 percent of all beer is packaged beer consumed on premise.

Q. But what I am trying to find out from you, sir, is the relationship of the packaged beer consumed on premise as compared to the packaged beer consumed off premise.

A. As I have stated, I think that about ten percent of all beer consumed is packaged beer consumed on premise, and about 65 percent of all beer consumed is consumed off premise, practically all of it is packaged beer. Therefore, we would say that 65 percent of the beer consumed is packaged beer consumed off premise.

Q. And then how much, percentagewise, of beer consumed on the premises is packaged beer, that remaining 35 percent?

A. It is 10 percent out of that 35 percent, two-sevenths, approximately 30 percent.

Q. In other words, then 70 percent of the beer consumed on the premises would be draft beer?

A. Yes, sir.

Q. Now, sir, I think, Mr. Shine, that you stated that, and (S73) you can correct me, sir, that over 50 percent of the package beer consumed at home has been bought at the grocery or food store. Is that correct, sir?

A. Yes, sir.

Q. It is. And in your terminology of grocery and food store, do you include the drug store?

A. No, sir.

Q. You do not?

A. No.

Q. How much of the packaged foods consumed at home, in your estimation, has been purchased at the drug store?

William J. Shine, for Respondent—Cross

A. Oh, it would be a rather small amount, possibly not more than, at the most five percent.

Q. Now, sir, approximately again, of the beer consumed at home or off premise, how much of that beer is purchased at the liquor store as opposed to the drug store or the grocery store?

A. I would say roughly ten percent.

Q. Now, sir, approximately what do you believe the percentage to be of the beer purchased through the grocery store, food store? I believe you said in excess of fifty percent, but approximately what do you think it would be?

A. Surveys are varying in a few percentage points. One of the surveys which was mentioned yesterday totaled 52 percent. Other figures have been 51 percent, but they all seem (874) to be slightly over the 50 percent mark.

Q. All right, sir. Now, as I understand it then, we have 52 percent purchased at the food store, five percent at the drug store, approximately ten percent at the liquor store. And what other sources would the beer to be consumed off premise be purchased at?

A. Oh, there are some scattered outlets that might account for as much as one percent of the total, places like some of the Southern markets where you can buy beer for off premise consumption at filling stations—maybe represents one percent of the total.

Q. Well, sir, that leave me then with 66 percent. Where would the other 34 percent of the packaged goods be purchased that is consumed off premise?

A. I did not say that this was 55 percent of the packaged goods. I said that 65 percent, or approximately

William J. Shine, for Respondent—Cross

two-thirds of all of the beer that is consumed is package beer consumed off premise.

Now, we have come up with the fact that 50 or 52 percent of it is purchased at food store, ten percent of it is purchased at liquor stores and five percent of it is purchased at the drug stores. That is your 67 percent.

Q. In other words, your percentage then is not 50 percent of the packaged beer consumed at home, but it is 50 percent of the total beer consumption of the United States is purchased (875) at the grocery store.

A. It would work out approximately the same way.

Q. Well, it would be a great deal different if we considered the 65 percent to be a total in and of itself, you see.

A. Sixty-five percent is of all beer consumed, approximately 65 percent of it is consumed off premise.

Q. All right, sir.

Now, let's take that figure at the 100 percent of all off premise consumption.

A. All right, sir.

Q. Of that figure, how much is purchased through the food store?

A. You mean what percent of that 65 percent or what part of that 65 percent?

Q. Well, either one — whichever one you care to give.

A. If you are going to put it on a percentage basis of that, it would come up to about 70 percent of that 65 percent would be purchased through food store.

Q. All right, sir.

Now of that total 65 percent being 100 percent total now, how much of that is purchased at the liquor store?

William J. Shine, for Respondent—Cross

A. Well, that would go to something between 15 and 20 percent.

Q. And what about the drug store percentage?

(876) A. Probably ten percent.

Q. Now, sir, are you generally familiar, Mr. Shine, with the purchasing of beer from any personal standpoint in a grocery store?

Let us put it this way: Do you purchase beer personally?

A. Yes, sir.

Q. Do you buy it through a grocery store?

A. No, sir.

Q. What source do you purchase it through?

A. I buy it from a package liquor store.

Q. Have you ever had any experience of observing purchases of packaged beer through a grocery store?

A. Yes, sir.

Q. Have you in your experience ever seen a woman buy a case of beer?

A. Yes, sir.

Q. A case of beer?

A. Yes, sir.

Q. It does not make any difference where; I am going to ask you have seen a woman buy a case of beer — true, sir — at a supermarket?

A. Yes, sir.

Q. What would your estimation be as to the type of person, meaning male or female, who purchased beer at a grocery store?

Mr. Barton: I don't quite understand that question. (877) If Mr. Shine understand it, all right. But, by the type of person who would buy in a grocery store, is quite unclear.

William J. Shine, for Respondent—Cross

By Mr. Mayer:

Q. In your estimation do more men buy beer in a grocery store or do more women buy beer in the grocery store, as opposed one to the other?

A. You are talking about the number of people buying, not quantity both?

Q. No, sir, just buying.

A. I would think that more women buy beer in supermarkets than men.

Q. Is that from your own personal observation or your own personal experiences?

A. Yes, sir.

Q. Do you make it a point to observe the beer sales in a grocery store or supermarket?

A. Occasionally.

Q. Would you have any comment to make on the figures, as I remember in the survey yesterday, which I believe it stated 70 percent of the beer purchases in the food stores were by men?

A. Which survey?

Mr. Barton: Is this what you are referring to?

Mr. Mayer: Yes.

The Witness: Who bought the beer for home consumption (878) in 1950.

By Mr. Mayer:

Q. What is the main title above that?

A. Right here?

Q. Is it today's?

A. "Today's beer market is a home and family market."

Q. All right, sir.

William J. Shine, for Respondent—Cross

A. The sub-title, which you might call it, "Who bought the beer for home consumption in 1950"?

Q. All right, sir.

A. "The husband 70 percent; the wife 18 percent; other, 12 percent."

Now, may I ask you to restate your question?

Q. Do you have any comment to make on that, sir, in view of your testimony?

A. No, sir.

Q. Do you find any inconsistency there at all?

A. This is 1950 report. I don't find any inconsistency with that.

Q. The figures shifted that far, I take it, since 1950?

A. Yes, sir.

Q. What evidence do you have of that, sir?

A. Observation, general trade information.

Q. Is it your consideration that the grocery store buyer of beer is more price conscious than, say, the liquor store (879) buyer of beer?

A. Yes, sir.

Q. And would that be true — more price conscious — than the drug store buyer of beer?

Mr. Barton: I am sorry, I didn't get that question.

(Question read by reporter.)

Mr. Barton: I object to the form of the question. I don't see what it means, Your Honor. It is an incomplete question.

By Mr. Mayer:

Q. Do you understand that, Mr. Witness?

A. I think I do but —

Q. All right.

William J. Shine, for Respondent—Cross

A. But maybe —

Hearing Examiner Hier: He wants to know if the buyer of beer in the drug store is more price conscious.

Mr. Mayer: Than in the liquor store.

The Witness. I don't think I would have any good basis for answering that question for the simple reason that the percentage of beer bought through drug stores is small, very small, compared to the percentage of beer that is bought through grocery stores.

I seldom, personally I have seldom made consumer observations in drug stores. Now, just as a general observation, not based on too much, I would say that the drug (SSO) store buyer might be a little bit less price-conscious than the grocery store buyer, a little bit less, not much.

By Mr. Mayer:

Q. Now, Mr. Shine, when one purchaser is buying for the consumption of someone else, for instance "X's" wife buys beer for "X", what effect in your judgment does the price have when the actual consumer, who is "X" is brand conscious?

A. I don't think I understand your question.

Hearing Examiner Hier: He means if I like Budweiser, and my wife goes to shop for me for some beer, what effect does the price differential in the food store have on her. She could buy Gunther for, well, for \$1.00 for six, and she has to pay \$1.50 for Budweiser. Will she buy Budweiser or Gunther?

The Witness: If there has been a general family agreement that you will get what you want, I presume she will buy Budweiser, if that is what you prefer.

William J. Shine, for Respondent—Redirect

Hearing Examiner Hier: I might make the observation in my family that isn't so. It does not make any difference what I want if the price is lower on the other ones. I think it makes some difference, too, who is paying for it. If I am paying for it, it is one thing. If she is buying it out of her allowance, that is something else.

Proceed.

Mr. Mayer: That is all we have of Mr. Shine.

(881) Hearing Examiner Hier: Any re-direct?

Redirect examination by Mr. Barton:

Q. Mr. Shine, I believe Mr. Mayer asked you whether you knew what the relative percentage is with respect to on premise and off premise sales of Falstaff in St. Louis in 1953, 1954 and 1955, and that you told him you did not know.

Do you have any estimate of what those percentages for on premise sales and off premise sales of Falstaff were in those years?

A. Yes, sir, I have an estimate.

Q. What is your estimate?

A. My judgment would be, my estimate would be that something between two-thirds and three-fourths of all of the Falstaff beer sold in St. Louis City and County is sold for off premise consumption.

Q. In other words, it is sold through off premise outlets?

A. Most of it.

Q. What do you base—has there been any change in that since 1953?

A. I think there might have been some slight change in it since 1953.

Q. In which direction?

William J. Shine, for Respondent—Redirect

A. I would say that Falstaff, since 1953, has probably increased somewhat, not substantially but somewhat the business in on premise outlets.

(882) Q. What do you base that estimate, those estimates of Falstaff's position on so far as on premise and off premise sales are concerned—that is in St. Louis?

A. Well, I have talked to the manager of our St. Louis City Department. I have talked to the supervisors in the City Department, some of the deliverers, and so forth, and asked them what their general opinion is about Falstaff sales in the outlets that they call on and so forth, and came up with a general idea that about two-thirds to three-fourths of the Falstaff volume is sold off premise, is consumed off premise.

Q. By the way, would you look at the report from the New York Wholesaler or branch and tell us how Schaefer is classified and at what price Schaefer is sold to retailers in New York as compared to Budweiser and other brands.

A. In the report from our Bronx Branch, Schaefer is priced to retailers, per case of 24, 12 ounce returnable bottles, at \$2.73; Budweiser, \$3.68.

Q. What other brands are listed in New York?

A. They list Piel, Ruppert, Ballantine and Rheingold at \$2.73, Pabst at \$3.65, Miller, Schlitz and Budweiser at \$3.68.

Q. Would you check your Baltimore report and tell us at what price Budweiser was sold to retailers on the 24, 12 ounce bottles in 1955? I have reason to think that the record might be in error about the testimony this morning (883) and I may be wrong. It may be the same, but in any event, tell us now what it is.

William J. Shine, for Respondent—Redirect

A. In Baltimore, the price to the retailer of Budweiser in 24, 12 ounce returnable bottles is \$3.62. The price of the local brands listed, \$2.58.

Q. Those brands are what?

A. National, Gunther, American, and Globe.

Q. They are designated as locals on the report form; is that right?

A. Yes, sir.

Q. Are there any reports for regionals on that report form?

A. No, sir.

Q. Would you refer to Salt Lake City, on Respondent's Exhibit 146-A?

A. To what city, please, sir?

Q. To Salt Lake City, Utah.

A. Yes, sir.

Q. What was the Budweiser price there?

A. Budweiser price is \$6.86.

Q. For what?

A. For a case of 48, ten ounce cans, packaged eight, six.

Q. What is the price for the high regional?

A. The high regional is Coors, \$7.40.

Q. For what?

(S83-A) A. Case of 48, 12 ounce cans, packaged 8, 6.

Q. Now, would you look at Respondent's Exhibit 145-A? What is the high regional with respect to the 24, 12 ounce bottle in Bakersfield, California?

Mr. Mayer: I believe he testified to this once.

Mr. Barton: All right. Let us find out.

Mr. Mayer: Again and again?

William J. Shine, for Respondent—Redirect

Hearing Examiner Hier: I don't know whether he did or not.

Mr. Mayer: Certainly he did.

Hearing Examiner Hier: If it is in the record, why are you putting it in the record again?

Mr. Barton: I have a point to bring out, your Honor, about this particular one which was not brought out on cross examination.

Hearing Examiner Hier: All right.

The Witness: Bakersfield, California, you say the 24, 12 ounce returnable bottle?

By Mr. Barton:

Q. Yes.

A. The price of Budweiser is \$3.35.

Q. What is the high regional?

A. The high regional is Coors at \$3.47 in the case of 24, 11 ounce, all so far as I know Coors produce returnable bottles in 11 ounce size.

(884) Q. So that their 11 ounce size is selling above your 12 ounce size in Bakersfield, California?

A. Yes, sir.

Mr. Barton: May we take a very short recess.

Hearing Examiner Hier: We have only been running half an hour.

All right, a few minutes then.

(A short recess was taken.)

Hearing Examiner Hier: On the record.

By Mr. Barton:

Q. Mr. Shine, have you examined Respondent's Exhibit 146-A to determine who in general are the high

William J. Shine, for Respondent—Redirect

regionals, who were selling at or about the same price the 48, 12 ounce can packages or comparable packages, to that of Budweiser?

A. Yes, sir, I have.

Q. And who are the regionals?

A. Well, on 146-F, Flagstaff, Arizona.

Q. Just tell me who in general—who they are.

A. It is Coors and Hamm's regional brands of beer.

Q. Not specifically.

A. Yes.

Q. What was it, for example, in Flagstaff, what was the difference? Who was the regional and what is the difference in price?

A. The regional brand is Coors, the difference in price (\$85) on the chart here—you can see your difference in price is something about five or seven cents. I can look it up.

Q. Have you examined the report forms to determine whether the differential in price that existed between the high regional and Budweiser, was reflected in any differential at consumer level?

A. There was no difference. The same price prevailed at consumer level.

Q. The same price between Budweiser and competing Coors or Hamm's price?

A. Yes, sir.

Q. Do you have your sheets with respect to Minnesota?

A. Yes, sir.

You mean the reporting forms?

Q. Yes.

A. Yes, sir.

William J. Shine, for Respondent—Redirect

Q. Would you examine the sheet which you got from your wholesaler in St. Paul, Minnesota?

A. Yes. I have it here, the report from our branch in St. Paul.

Q. What is the Budweiser price in St. Paul to retailers on the — first, let us take 24, 12 ounce returnable bottle?

A. The price of Budweiser, \$3.35.

Q. And what other prices are listed on that sheet for the 24, 12 ounce returnable bottle?

(886) A. Schlitz, \$3.30; Pabst, \$3.28; Millers, \$3.33; Hamms, \$2.98; Pfeiffer, \$2.98; Grain Belt, \$2.95; Gluck, \$2.95; Schmidt, \$2.87.

Q. What is the price at the retail level on the off or on premise consumption?

A. On premise consumption?

Q. Yes.

A. Over the bar?

Q. Yes, of Budweiser and of Hamms.

A. Budweiser is 25 and 35 cents; Hamms is 20, 25 and 30 cents.

Q. What is the situation on the price of the 48, 12 ounce cans, as between Budweiser and Hamms in that market?

A. The price to the retailer?

Q. Yes.

A. Budweiser is \$7.42; Hamms, \$4.06.

Q. What is that translated into at the retail level on the 6-pack?

A. 6-pack of 12 ounce cans, to the retailer, off premise, Budweiser from \$1.09 to \$1.25; Hamms from \$1.00 to \$1.25.

William J. Shine, for Respondent—Redirect

Q. Mr. Shine, on cross examination Mr. Mayer referred to the fact that you had picked only three wholesaler reporting forms in Minneapolis, namely, — Minnesota — St. Paul, Brainard and Bemidji.

Would the result have been any different, Mr. Shine, (887) in the portrayal that is made on the chart if you had charted each one of the wholesale reporting points in Minnesota?

A. I don't think that there would have been any difference. If there had been any, it would have been a matter of a penny or two pennies.

Q. Mr. Mayer asked a question concerning whether you had made any analysis of the prices charged by different retail outlets. Do you recall that question?

A. The question that Mr. Mayer asked this morning?

Q. That is right, about the retail prices on premise outlets.

A. Yes, sir.

Q. How did you understand that question?

A. I understood Mr. Mayer to ask if I had tabulated the number of outlets that sold Budweiser across the bar at 25 cents and the number that sold it for 30 cents. And I answered that I had not so tabulated it.

Q. Have you made any tabulation -- you do recall, of course, there is on the reporting form, Respondent's Exhibit 144, a box for asking for the number of on premise outlets in which there is no difference in over the bar price for 12 ounce containers of Budweiser, versus regional brands, and another box for the same information with respect to Budweiser versus local brands and similar information is requested for the number of on

William J. Shine, for Respondent—Recross

premise outlets where the differential is .05 (888) cents, and where it is .10 cents?

A. Yes, sir.

Q. Have you made any tabulation of the information that was received on the reporting forms, based upon that information?

A. Yes, sir.

Mr. Barton: That is all.

Hearing Examiner Hier: Mr. Mayer.

Recross Examination by Mr. Mayer:

Q. Mr. Shine, in reporting of the various wholesalers, as I understand it, for instance, noting the spread of Budweiser between, well, let us say 25 cents, 25 to 4 cents—25, 30 or 35 cents, let us put it in one outlet, there was no indication as to the number of outlets that have the 25 cent or how many have it at 30 cents, or how many have it at 35 cents. It was given in the terms of the spread in the price, was it not, sir?

A. As I gave it to you this morning?

Q. Yes, sir, as the wholesaler reported it.

A. On the form they report either the number of outlets at each price or the percent of outlets at each price.

You may recall on one example this morning I read it right off the form that two percent had reported.

Q. Then an analysis of these exhibits will show us in detail the number of outlets at the various prices when you were (889) giving the spread in prices this morning.

A. Yes, sir.

William J. Shine, for Respondent—Recross

Q. Now, sir, in the reporting form I notice it calls for per case 24, 12 ounces. Did the wholesaler in returning the form with relation to Bakersfield make a specific notation on there that his prices concerning Coors were for an 11 ounce container?

A. Yes, sir.

Q. He did.

A. Yes.

Q. That is all I have.

A. By footnote on the form.

Mr. Mayer: Thank you.

Hearing Examiner Hier: Anything more?

Mr. Shine, who made the decision to cut prices in St. Louis in the Spring — what official — of 1954?

The Witness: I don't know what official made the decision. All I know, Your Honor, is that it was the decision of top management of the company.

Hearing Examiner Hier: Was it as the result of a round table conference, a discussion?

The Witness: I don't know because I was not present at such, at any such discussion, if there was such a discussion. I don't know.

Hearing Examiner Hier: You can't tell me why St. (890) Louis County was picked then?

The Witness: I can surmise, but I couldn't — I couldn't tell what had been in the minds of management people when they made the decision.

Hearing Examiner Hier: Anything as the result of my questioning? Do you have any questioning?

Mr. Barton: I do not.

Mr. Mayer: No.

John Hallquist, Jr., for Respondent—Direct

Hearing Examiner Hier: Then you are excused, Mr. Shine. Thank you very much.

(Witness excused.)

Hearing Examiner Hier: Who is next?

Mr. Barton: Mr. Hallquist will be next, Your Honor.

Hearing Examiner Hier: This is Mr. John Hallquist, Jr., who was previously sworn in this case.

JOHN HALLQUIST, JR. resumed the stand and testified further as follows:

Direct Examination by Mr. Barton:

Q. Mr. Hallquist, in the course of your previous testimony in this case, I believe you testified that you mailed out Respondent's Exhibit 12 to some eighty or eighty-five different markets in the country.

A. Eighty-six, to be exact.

(891) Q. Sometime in April of 1954?

A. That is correct.

Q. Did you personally prepare Respondent's Exhibit 12? Do you have a copy of it?

A. I think I have. Yes, sir, I did.

Q. Was it reviewed by anybody before you mailed it?

A. Oh, yes, several people on the Sales Manager's staff as well as the Sales Manager reviewed the form and the questions that we were asking before we mailed it or put it in its final form.

Q. I note that on Respondent's Exhibit 12, reference is made on various pages, for example on pages 3 through

John Hallquist, Jr., for Respondent—Direct

10, to various district, and there is a note on each of them, for example, percent decrease, two months sales package and draft.

Do you recall to which two months, which two months are referred to in that reference?

A. January and February of 1954.

Q. And is that a comparison of January, February 1954, with —

A. With the same period in 1953.

Q. — in 1953?

A. Yes.

Q. Will you explain the procedures which were followed in conducting this survey?

A. Yes. We selected, first, the markets in the country, (892) the major markets in the country in which our sales decline had been most precipitous, selecting a major market from each State, at least, and perhaps two or three from some States, depending upon the size of the market and the amount of sales decline.

What we wanted to do was to get a good picture, overall, of conditions nationally, and in individual major markets.

The form, it might be well to explain that our District Managers, as we term them, have charge of a State, or in the case of the major States, perhaps half of the State. They are the sales managers for their district. Over them we have an assistant regional manager and a regional sales manager. At that time we had eight such sales areas or regions in the country. The survey forms were mailed to district managers in the instances where there was only one market in a district that we wanted to get survey information from. If there were two or

John Hallquist, Jr., for Respondent—Direct

three, the assistant regional manager might take one and the regional manager might take one. In all cases, only one man went to one market.

Q. Then, of course, there was a portion of the survey form which was to be filled in by the wholesaler who was to be contacted by the person taking the survey?

A. That is correct; information was to come directly from the wholesaler's records.

Q. I notice on Exhibit 12 there is a reference, on page 2, (893) to the following: that as per our discussion after the regional meeting in St. Louis, find attached a list of major markets in your region for which the special survey should be completed.

When was that regional meeting held in St. Louis?

A. I believe either the last several days of March or the first several days of April.

Q. And you were there, were you?

A. That is correct.

Q. Now, will you explain the purpose of detailing the various information which Respondent's Exhibit 12 requested; for example, what was the purpose of obtaining the comparison of Budweiser package sales to retailers for the month of October through March of 1952, 1953, as compared with 1953, 1954, broken down to various types of packages as on Page 13 of the record?

A. Yes, we were interested in learning, and also having our field man fully aware as to what particular cartons or in which particular cartons our major decreases occurring, if there was any difference.

In other words, was the greater loss coming in 24, 12 ounce cartons or was the greater loss coming in the 8, 6 cans.

John Hallquist, Jr., for Respondent—Direct

Q. By and large, in your business, is there some generalization which is drawn as to whether a package is a take home (894) package or a package to be consumed on the premises, depending upon whether it is bottles or cans?

A. That is very correct. In the case of the returnable 12 ounce bottles, generally speaking, they are considered an on-sale item, or an over the bar bottle.

In the case of cans, they are considered, generally, as a take home package.

Q. Where do the returnable bottles fit into that picture—I mean returnable bottles?

A. Non-returnable bottles are also considered generally as take home packages.

I might note here that in the extreme right hand column we indicated a 36, 7 ounce, or a 12, 32 ounce, and asked the man reporting to indicate one. We gave him the option of taking a 7 ounce package or a 32 ounce package, because in some areas the 7 ounce package is a major item. In other areas it is practically not sold at all.

The same holds true for 32 ounce bottles. There are some areas in the country where quarts are very, very popular, for example, in New England and New York State. When you get around Baltimore and Washington, I don't think you sell many quarts.

Q. Those quarts are, by and large, take home packages?

A. That is correct.

Q. What was the purpose of the inquiry on Page 14 regarding (895) sales by the wholesalers or on sale

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outlets and off sale outlets, which I presume are the same on and off premise outlets?

A. That is correct. Once again we were seeking to determine from what type of outlet we were having our greatest amount of sales decrease, if there was a difference between the sale decrease in the on sale or off sale.

Q. What was the purpose of obtaining the next item of information on Page 14, namely, the number of outlets divided between on and off sale buying as of March 31, 1953 and 1954?

A. Well, we were concerned during this period in which our sales were dropping, that we might also be having distribution, in other words, placements of our product. If that was happening, we were concerned that the drop would continue even at a faster rate.

Q. What was the purpose of inquiring as to it, as you do on the next page, page 15, of Exhibit 12, with respect to the number of on premise or on sale outlets selling at 25 cents, at 30 cents or 35 cents, both pre-October, 1953 and post.

A. Well, in the Spring of 1954, what was the commercial significance of that?

A. Well, pricing both on sale and off sale are of tremendous importance to us. And we were extremely interested in finding out the pattern of pricing over the bar during the (S96) period before the price increase and the period after the price increase, and this would give us the number of outlets selling at each one of those prices. We were not concerned with the fringe above the 35 cent price. We were interested in the mass of the market which normally was selling around 25 and 30 cents.

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Q. Before the price increase in October, 1953, what was the predominant price, the 25 cent price?

A. Yes, with a great deal of 20 cent price in certain areas. That had shifted considerably, however, after the price increase of October 1953, and a large number of outlets were selling at 30 cents per bottle, which we have found is a terrific barrier to beer sales.

Q. What is the principle involved there?

A. We feel that a quarter is an easy medium of exchange. It is a coin that you carry in your pocket and you readily spend, a quarter. When you have to reach in and put another nickel with it, it seems like it is a terrific barrier.

Q. What was the purpose of obtaining the information requested in the next item, that is, with respect to the number of outlets with price differentials to consumers, national against locals and national against regionals?

And let me ask you also, does that refer to on premise outlets alone?

A. That is correct.

(897) Q. I see.

What is the commercial significance of that information?

A. Well, we found that during the wave of price increases over the bar, that many outlets had increased their prices on, let us say, national brands, and failed to do so on regional and local brands, who may not have increased their price in an area. We found that in a great many instances, differentials were created that did not exist before. In some areas there were not differentials between national brands and local brands or re-

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gional brands. There are other places where no differential existed before, we find now that they had a differential existing. In other areas the differential went to ten cents.

Q. What was the purpose of the next item, the information with respect to national and local, national and regional prices and the differences on the 6-can pack?

A. Once again to get information currently as to the prices of national brands as compared to local brands and regional brands for 6 can packs.

Q. I note —

A. And to note the differential.

Q. I note, by the way, that the form consistently refers to "route sheets or sales record cards" as a possible source of the information from which the form is to be filled out.

Would you please tell us what is referred to in that (898) connection?

A. We furnish our wholesalers throughout the country with sales record cards and make them available free of charge each year.

In addition, our field men have been schooled in the use of sales record cards and also the benefits and value of using route book and route record cards for both driver salesmen and for regular salesmen.

Q. What is the information, what type of information is to be maintained on those cards?

A. On sales record cards, generally, the information is sales or purchases by a retail outlet. They come in different forms. Some of them are posted on a daily basis. Some of them have space allotted for 31 days a month. Other ones, perhaps, have a weekly total.

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Also, on that sales record card is information about the type of outlet, the selling prices at that outlet, information of that kind.

Q. What was the nature of and the purpose of the information requested on Page 16, prices to retailers?

A. Well, the pricing situation was and had been in a turmoil ever since October. We didn't have current information for all points in the United States as concerns the various national brands in individual markets, nor did we have it for local and regional brands, and for that reason we asked for (899) pre-October prices for the so-called national brands, with space for three local brands to be listed and two regional brands.

We asked for the pre-October price, the price that was in effect at the time the survey was filled in and the amount of increase. We asked for that information for what we normally consider the standard packages, the 24, 12 ounce returnables, and the 8, 6 carton of cans.

Q. And by and large, when the survey forms were returned with the names of those locals or regionals to whom reference was made filled in by the wholesaler?

A. That is correct.

We asked them to insert the brand names of three leading local brands and two leading regional brands.

Q. What was the purpose of obtaining the next item of information which is entitled "Industry Package Percent Sales Increase or Decrease"?

A. Well, there is a time lag in any of the industry figures that we are able to get, from the State ABC Boards that do furnish that information. It is also true that it is not available from too many States.

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So, we wanted to know, first of all, what was the industry doing, was the industry itself going up and down. We wanted to know what Budweiser was doing in that local market; what Schlitz was doing in that local market; and we wanted to (900) know what the leading regional and local brands were doing, because we wanted to know who was getting the business, if business for the industry was on an even keel in that market.

Q. Because you knew you were not getting it?

A. We were not getting it.

Q. What was the nature of the instructions which were given with regard to the sources which your field men and your wholesalers were to utilize in giving you information on this survey?

A. We felt that this was a very, very important survey and for that reason we asked our field men to get information from sources that they and we could consider reliable, and to open up their thinking, and to give them a lead we suggested such as other breweries and other wholesalers; the local liquor control board.

In some areas newspapers would have that information available. And, of course, the least desirable would be the retail calls that the man made himself.

Q. I note that on Page 17 in the report, the person making the survey was asked to comment upon the reasons for Budweiser's package sales decline in the area.

A. That is correct.

Q. What particular information were you seeking in that request?

A. We were seeking any information the man could give us, (901) because as I testified earlier, there was not, let us say, full agreement in our offices in St. Louis.

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as to the causes of the sales decline or the action that should be taken.

And for that reason we were frankly asking for an individual appraisal, market by market, which we tabulated later.

Q. That individual appraisal was of your district manager, or of someone who was in touch with that market?

A. And consulting with the local wholesaler.

Q. What was, in general, the remainder of the survey designed to do, or designed to inform you about?

A. We know, of course, that the market on which the report was being prepared was a market in which we were having some serious sales reversal. We wanted to know whether the wholesaler's effort in the market had changed.

We wanted to know the number of delivery salesmen, he had before the price increase and after the price increase, March 31, 1954.

We wanted to know the number of deliver salesmen, all of which was designed to tell us whether or not — the cause of the sales decreases that he had, had he cut back on his sales effort, in which case we could figure that we were going to have less sales.

Q. Mr. Hallquist, in the period in which you have been connected with Anheuser-Busch in a sales capacity, had there ever been a survey of this nature and magnitude undertaken prior to (902) April 1954?

A. Mr. Barton, not to my knowledge. In fact, I can't-recall a situation at any time in my history with the company that we had cause for concern of this kind.

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Q. What was the procedure that was followed by you or by others after Respondent's Exhibit 12 was sent out to the field and the survey forms had been returned to St. Louis filled in?

A. Well, they were all — In fact, I reviewed all of them as they came in. On many of the forms I have made my own notations. Those that I have deemed of special interest, that might bear on a particularly critical market, or the comments of the wholesaler were of such nature that I thought our sales manager ought to know about it, I made a point of seeing that he read the wholesaler's comments and the other information on the form.

Q. Did you make a tabulation of the items of information of a statistical nature that were disclosed, asked for in the report?

A. Yes, sir. We made a detailed tabulation and wrote a report interpreting the information which we had tabulated.

Q. I show you Respondent's Exhibit 153 and ask you whether that is a summary of the survey forms which were returned by the various district managers and field men whose responsibility it was to fill out the forms?

A. Yes, sir.

(903) Mr. Barton: Previous to this time, in fact the first day of the hearing, we turned over to Commission Counsel all of the forms which were returned and which formed the basis for Respondent's Exhibit 153, and they are now in the possession of the Commission Counsel for the purpose of checking the statistical data contained in the report.

I offer Respondent's Exhibit 153 in evidence.

Mr. Mayer: May I have just a moment, sir.

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I have the same objection to this that we raised to the materials relating to conditions and prices outside of the St. Louis market area. I don't believe that it is relevant nor material to any defense to the charge of varying price discrimination in St. Louis.

Hearing Examiner Hier: That objection will be overruled as were the others. The Exhibit is admitted in the record until such time as you choose to move to strike, if you choose to move to strike.

(The paper referred to, heretofore marked Respondent's Exhibit 153 for identification, was received in evidence.)

By Mr. Barton:

Q. Mr. Hallquist, referring to Respondent's Exhibit 153, and page 36 thereof and following pages, will you please tell us what those pages are in the report?

A. That is a copy of a special sales analysis form which was returned by our regional manager, F. P. Rollins, to cover (904) the Drenik Beverage Distributing Company, in Cleveland, Ohio. It is dated April 23.

Q. And is this similar in nature to the other forms which were returned by your other district managers?

A. Yes, sir. This is just a sample completed form which was attached to the tabulation so that everybody knew just about the form operated.

Q. I note that in the body of RX153, both in the report and in the attachments, there are these statistical analyses which were made of the forms returned.

I ask you, did you in the making of the statistical analyses contained in RX153 use all of the data that was returned?

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A. Yes, sir.

Q. By the report?

A. Yes, sir. There were 78 out of the 86 forms that were mailed which were returned and tabulated in this summary.

Q. I take it that since you were in a somewhat serious situation and were concerned with getting the report in shape, some of them were returned too late to be included?

Mr. Mayer: I object to that. Let him ask the witness his analysis of why things happened.

Mr. Barton: All right.

Hearing Examiner Hier: Sustained.

By Mr. Barton:

(905) Q. Mr. Hallquist, why were some of the reports from the 86 markets to which RX12 was sent not included in the tabulation?

A. We had a closing date on the return of the form itself. In other words, we had to get this analysis completed by a certain date. Further, I think that several men who were assigned to individual markets for one reason or another, they were not able to proceed to those markets. There may have been illness. I don't remember the exact circumstances but some of the seven or eight that were not completed — some were never completed.

Q. What did the report from Drenik indicate was the action which he recommended Anheuser-Busch take to arrest the sales decline?

Mr. Mayer: I object to that. Isn't that stated on the exhibit?

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The Witness: Yes, sir, it is.

Hearing Examiner Hier: Sustained. It is on the exhibit. Sustained.

Mr. Barton: Pardon?

Hearing Examiner Hier: If it is on the exhibit as the witness says, I will sustain the objection. No point in getting it in orally also.

By Mr. Barton:

Q. Let me ask you this: Were there recommendations from wholesalers whose forms have been given to counsel for the (1906) Commission similar to those which Drenik made and which is attached to Exhibit 153, namely, that Anheuser-Busch bring out a beer which could compete pricewise with regional beers in his market?

A. There were others that had that comment.

Q. What were the main conclusions that were reached as the result of this survey which is represented by 153?

A. There are two reasons advanced for the sales decline: Number one, economic conditions, a loss of, say, overtime in certain heavily industrialized areas, and that premium pay had been eliminated in other areas; that consumers apparently had less money to spend than they had before.

The second important reason given was the pricing factors, that the national brands had gone up and as a result prices to the consumer both over the bar and from take home outlets had increased, and in most instances a greater differential was created than existed before.

Q. What, in general, was the finding with respect to the number of outlets where the ten cent spread between Budweiser and other regional brands had been affected?

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A. 67 percent — there was an increase of 67 percent in the number of outlets that had a ten cent differential between local brands and national brands, some 5,200 outlets in the 78 reporting points.

In connection with regional brands, the increase was (907) some 88½ percent where a ten cent differential had been created where none had existed before, a total of about 4,200 outlets.

Q. Was there any finding that even where the Budweiser and the regionals had increased that the price increase had created additional resistance because of the additional nickel added?

Mr. Mayer: I object to that. That statement is right from the report.

Mr. Barton: All right.

By Mr. Barton:

Q. What, if anything, did the report, the survey show with respect to the differential between Budweiser and local or national or regional brands at the off premise, in the off premise market?

A. There, again, the differential had existed on, say, a six can pack, had increased by two, four, six, eight, ten cents per carton. That market is extremely price conscious and actually a great many consumers of Budweiser traded down to the next lower priced brand.

Q. Mr. Hallquist, I note on Page 3 of RX153, that it is stated that sales management recognizing the continuing decrease in Budweiser had undertaken a number of types of promotions other than of a price nature in an attempt to reverse the trends.

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Could you describe generally what some of these were (908-910) and where they were used?

A. Well, national sales contests, meetings in the field with wholesalers to stimulate them, material with which they could combat pricing, additional new points of sales material.

In addition to that, we urged our wholesalers to do many things. We urged them to put on additional manpower, to us and at their own expense local consumer advertising.

We urged them to put in incentive plans for their deliverers and their salesmen. I think we used about everything that sales management would have available to it.

(911) Q. Were there some areas in which you ran into boycott by retailers of your product during that period?

Mr. Mayer: I object to that. What relevance is that particular survey —

Mr. Barton: It is a general part of the general sales picture in that period, Your Honor, and this is the period of the spring of 1954 that we are talking about.

Hearing Examiner Hier: This GSP, this general sales picture, I hear so much about every time the respondent puts on proof, is getting to be awfully wide. I do not see anything relevant about boycotts. You are talking about what he has done to move merchandise, not what has been done to keep him from moving it.

Mr. Barton: But I am getting to the point of what problems there were in the movement of merchandise, Your Honor.

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Hearing Examiner Hier: You can bring out what he has done; never mind about the problems. A boycott is, after all, an illegal proposition.

Off the record.

(Discussion off the record.)

Hearing Examiner Hier: I will sustain the objection. Never mind the boycott picture; just tell us what else you did.

The Witness: Well, we had to send special crews into certain areas to handle pricing situations that had gotten (Q12) out of hand, there where our retailers had actually lost a substantial part of their distribution.

Hearing Examiner Hier: What do you mean, gotten out of hand? They had gone price-crazy and cutted? What do you mean by "gotten out of hand"?

The Witness: Well, the wholesaler could not handle the situation. Retailers would no longer stock the product.

Hearing Examiner Hier: Oh; the source dried up. All right, go on.

By Mr. Barton:

Q. I note, Mr. Hallquist, that the recommendations made by some of the wholesalers and field men in RX-150 leaned to more consumer advertising. What, if anything, was done about that?

A. Well, Anheuser-Busch, I think, had its largest advertising budget in 1954 that it had ever had before.

Q. Was there a feeling around the company and the sales department that advertising could handle the prob-

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lem or that it took something more than merely advertising?

A. Yes. I recall that management offered our advertising department \$1 million in additional funds for advertising, if they thought that the expenditure of that additional advertising money would straighten out the situation in so far as the sales decline was concerned.

Neither the advertising department nor our advertising agency felt that additional advertising dollars would do the (913) job.

Q. Who was the advertising manager of Anheuser-Busch?

A. Ray Krings.

Q. Who was your advertising agency?

A. The D'Arcy Advertising Company.

Q. Located where?

A. In St. Louis, Missouri.

Mr. Barton: May we take a short recess, Your Honor? We are half way here.

Hearing Examiner Hier: Five minutes.

(A short recess was taken.)

By Mr. Barton:

Q. Mr. Hallquist, was any consideration given to the possibility of rolling back the October, 1953, price increase which had been made nationally as a result of your survey?

A. Yes, sir. There were quite a few very serious discussions about it. However, it was felt almost by everyone concerned that rolling back the prices would not be the answer to the problem.

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Q. What was the reason for that conclusion?

A. Well, over the years, our strength has been in the bar, over the bar, and when over the bar retailers, on-premise retailers, increased their prices by five cents per bottle—I don't know of any of them that go up a penny or two pennies—but when they move their prices, they go up at the rate of five (914) cents a bottle, which is \$1.26 a case—even though the beer to the wholesaler has only gone up 15 or 20 cents—they are not inclined to reduce their prices by \$1.05 or \$1 if the brewer or wholesaler reduces the price to him by the 20 or 15 cents that he originally went up.

I might add that has been our experience over the years.

Hearing Examiner Hier: You mean they seized upon the price increase from the brewer as a result of the strike to go up five cents over the bar, and if you rolled it back, there wouldn't be a thing said about it?

The Witness: Yes, sir; that is very true. And I might add here that as a result of some studies that we made in Ohio—and Ohio is a state in which we cannot use a ten-ounce package or a 7-ounce package—we made a partial roll-back in Ohio. I spent a considerable time in the city of Cleveland myself working with the wholesaler, making retail calls, and I might say that the wholesaler in that market went up 20 cents per case, he rolled back the returnable bottles 15 cents a case, we didn't get any retailers at all to reduce their price, and there was, and still exists, a ten cent spread between Budweiser and the local beers in Cleveland, whereas before there had only been a nickel differential.

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The prices now are 20 and 30 cents compared to 20 and 25 cents pre-October, 1953.

By Mr. Barton:

(915) Q. Mr. Hallquist, when you refer in that answer to local brewers, who are you talking about?

A. In the city of Cleveland, Carling's is one; Leesey, P.O.C.; there is Duquesne, which is actually a regional from Pittsburgh, Pennsylvania. I would say that is the major ones in that market.

Q. And Carling, the headquarters are where?

A. In Cleveland, Ohio.

Q. And they also own the brewery in St. Louis, do they not?

A. In St. Louis, Missouri. Their new plant ought to be opened pretty soon in Natick, Massachusetts. They have had—I think I testified to this before—they have plans to build a brewery in Atlanta, Georgia, and have had legislation passed down there which would permit them to continue operation of a brewery even if the state went dry. That, of course—they have, of course, some 14 breweries because they are a Canadian company.

Q. Mr. Hallquist, were there any long-range plans developed as a result of this survey, and as a result of the general thinking in the company to meet this problem of lagging sales?

A. Yes, sir; there was.

Q. What was the general nature of those, the category?

A. Yes, sir.

The first thing that we did was to study the possibility of using our present, at that time, our regular take-home

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(916) packages, reducing the price on those to see if we could become a better entrenched, or get a better hold in the off-premise market.

The next thing was the planning for the new packages, and later the planning for the new products.

(The documents referred to were marked Respondent's Exhibit 154-A through F for identification.)

By Mr. Barton:

Q. I show you RX-154-A through F.

Hearing Examiner Hier: Before you get to that, you have not offered 153.

Mr. Barton: I thought I did, Your Honor.

Hearing Examiner Hier: You did?

Mr. Mayer: Yes, sir.

Mr. Barton: I thought it was admitted.

Hearing Examiner Hier: All right, go ahead.

By Mr. Barton:

Q. I believe there is a pending question. I asked you what 154-A through F is.

A. This is a memorandum written by me to Mr. Barsi on June 4, 1954.

Q. What were the circumstances under which this memorandum was prepared?

A. Well, sometime after the tabulation of the April, 1954, survey was completed, Mr. Barsi asked me to investigate the practicality of reducing our take-home packages, reducing the (917) price of our take-home packages, in order to make it more attractive in so far as the off-premise was concerned.

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I studied the prices and differentials for most of our packages to determine whether or not we could successfully do that or not. It was my conclusion that it could not be done successfully, and I made certain recommendations to Mr. Barsi in the memorandum.

Q. What were the packages that you were considering as the take-home packages in that connection?

A. Well, the principal package that we considered was the 12 ounce can in all of the packs that we manufacture in the 24 twelve-ounce, the 48 twelve-ounce pack, the 4 12s, and the 48 twelve-packs, and the 8/6s.

We also considered using the 32 ounces, and I had some thoughts about the 7-ounce, and I investigated that at the same time.

Q. How about the 12-ounce, non-returnable bottle?

A. Well that, of course, was included as an off-premise package.

Q. You say that you concluded that this proposal you were studying was not feasible. What were the considerations which dictated your conclusions?

A. After studying this, the selling prices, and the differential between our own 12-ounce bottle carton, the 24 twelve-ounce bottle carton, and the equivalent of that in cans, it was (918) my feeling that any reduction in that would be productive of results price-wise in the off-premise market would reduce that package to the same price as the 24 twelve-ounce bottle, or below it.

If that happened, we would be in the position of cutting into our, or reducing our 24 twelve-ounce returnable sales.

We must remember that with the non-returnable packages like the 10-ounce non-returnable bottle, the 10-ounce

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can, or the non-returnable quart bottle, that there are additional costs involved in the manufacture of those or packaging of those as compared with the 24 twelve-ounce returnable bottle.

We have to pay for the one-time trip of the container, the can that we are going to throw away, the consumer is going to throw away, or the non-returnable bottle that they are going to throw away.

So that in addition to the loss in revenue that we would incur if we reduced the price of the can packages, or the non-returnable packages, even with an expected increase in sales, we would also be cutting in to our returnable bottle business, which is a profitable one.

I might explain —

Q. Go ahead.

A. — (continuing) further that the retailers in on-premise outlets, if the price of cans or non-returnable bottles was too close to that of the returnable bottle, they would handle only (919) the non-returnable packages.

We have had some experience with that, especially in a state like Florida. I had some experience of my own in New York city with it, in that when the price of non-returnable bottle or can gets too close to that of the 24 twelve-ounce returnable bottle, the retailer will no longer go through the inconvenience of separating bottles, arranging for storage space for empty bottles, because there is a certain amount of dirt connected with it, and he also has a certain amount of loss in broken returnable bottles.

Hearing Examiner Hier: Why couldn't the 10-ounce can replace the 12-ounce returnable bottle and get rid of that business entirely and not lose it?

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The Witness: We would cut, however, into our returnable bottle sales, and the cost of doing this would be much greater than if we were thinking in terms of only doing it for the off-premise market where we hope to get an increase in sales. We would also be replacing our present returnable bottle business in the non-premise outlets and, remember, that is where our strength has been.

Mr. Barton: I think His Honor's question is why were you concerned about the possibility that the can or returnable bottle would replace the non-returnable bottle.

Hearing Examiner Hier: No, it is the other way. He says his returnable bottle business is profitable, was profitable. (920) He does not want to lose it.

Mr. Barton: That is right.

Hearing Examiner Hier: Now I am asking why he could not replace it, or substitute for it, a can or the non-returnable bottle.

The Witness: You would do it at a considerably less profit to yourself, that is the point I am making.

Hearing Examiner Hier: You make less money on cans and non-returnables, than you do on returnables?

The Witness: That is true; and if we reduce the price on those, the difference would be—if you sold a returnable bottle to a wholesaler or retailer at the same price that you sold a can, the can package, even though we get more money for it, now costs us more money. We have to buy the cans which are thrown away.

Hearing Examiner Hier: I know, but you have to buy the bottles, too.

The Witness: On the returnable bottles though we may get a dozen, 15 trips, and the only—in fact, on our paper cartons, we may get three or four trips from them.

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Hearing Examiner Hier: Paper cartons?

The Witness: Yes, sir.

Mr. Barton: The paper packages which hold the returnable bottles.

Hearing Examiner Hier: I didn't think we were (921) selling them in paper containers.

Mr. Barton: I offer in evidence RX-154-A through F.

Hearing Examiner Hier: Same objection?

Mr. Mayer: I have not seen anything but Exhibit 154, which is a 5-page memorandum.

Mr. Barton: I am sorry; D, E, and F are tables; I am sorry, Mr. Mayer.

Mr. Mayer: We have the same objection to this document, sir, based on relevancy and materiality.

Hearing Examiner Hier: Same ruling. 154-A through F will be admitted into the record.

(The document referred to, heretofore marked as Respondent's Exhibit 154-A through F for identification, was received in evidence.)

By Mr. Barton:

Q. Mr. Hallquist, what was the relationship, if any, between the preparation by you of RX-154-A through F, and the 1954 survey which has been marked RX-153?

A. Well, much of the information which I needed to make this study, I could have only gotten from one place, and that was the 1954 survey.

Q. What are you referring to?

A. I am referring to the prices to consumers of Budweiser and locals, the price to the retailer, and the wholesaler's mark-up (922) as well as the differential be-

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tween 24 twelve-ounce returnable bottles and the equivalent of that in cans, let us say a 4/6 can pack.

Q. That is the information that is contained on RX-154-D through F, is that right? Is that right by and large?

A. Yes, sir; that is right.

Q. Mr. Hallquist, I note that in Exhibit 154-A, you refer to the non-returnable 12-ounce bottle as being considered a "fighting package".

Would you please explain what you meant by that term as it was used in that paragraph?

A. Yes, sir. We were thinking of it, and I was thinking of it, and alluding to it in the sense that it might be the package that we could use to get into the fast-growing, off-premise consumption field, which up until this time, had been, let's say, preempted by regionals, such as Falstaff, with their lower prices.

Q. Now, were your recommendations, which are contained on RX-154-C, adopted?

A. I would say in the main they were adopted. We did proceed with the development of the 10-ounce can and bottle, and rather than use the quart as the fighting or volume-producing package, we brought out the fifth bottle, which actually is a fifth of a gallon compared to a fourth of a gallon that a quart is.

Q. What is the fact as to whether that is, in general, a (923) comparably priced package of Budweiser, as compared to the important regional competitors, like Falstaff?

A. That was our basic reason for bringing it out.

Q. Mr. Hallquist, you referred to the fact that another aspect of the long-range plans taken in connection

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with countering the sales-reverse, was the introduction of some — introduction of new packages. What has to be done by a concern such as Anheuser-Busch when a new package is to be introduced?

A. Well, it is quite an involved procedure, in that we have to study a myriad of problems before we can even give it too great a consideration.

One of the things that you would have to study first, would be the legal aspects of the thing, to find out whether or not such a package could be sold, to get information so as to determine in which states such packages might or might not be legal.

For example, Texas, Ohio, Nebraska, South Dakota, don't permit packages smaller than a 12-ounce container. Some of these are — some of these states regulate by law — those things are written into the law. There are other states in which approval of the sale of such package is up to a local ABC board, and it is handled by regulation.

Q. Now, what was the tax problem, if any, that existed?

A. Well, there we have the situation where some states tax (924) specific packages and have made no provision in their tax structure to tax a package such as a 10-ounce package. They may have set up in their taxing procedure a tax rate for a 7-ounce bottle and a 12-ounce bottle. Your 10-ounce bottle, therefore, would have to carry the 12-ounce tax.

By the same token, the fifth bottle would have to carry the 32-ounce tax. Now, taxes are an important part of our pricing situation, or the price we are going to bring it into the market at.

(925) Q. I see.

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Now, when you talk about pricing situation, what was the relationship between the packages and the pricing situation, if any?

A. Well, the only reason for considering the packages in the first place was to bring into the marketplace a package, even though it had several ounces less, that could compete with the strong and rapidly gaining regional and local brands.

Q. Now, what, if any, production problems are there in connection with the introduction of new packages?

A. Well, there is the problem of your plant capacity, the machinery that you have. We are set up to produce 7, 12-, and 32-ounce packages, or we were at that time.

Q. That was at the beginning of 1954?

A. 1954. And studies had to be made as to whether or not some of our machinery could be converted.

The costs of converting machinery had to be calculated. Perhaps machinery couldn't be converted, and we might have to put in additional equipment. Those were all factors that had to be very carefully studied and weighed.

Q. What, if any, production problems outside your own facilities had to be considered?

A. Well, in the can field, there never had before been produced a 10-ounce can. They, of course, would have the same problems that we have, in making what necessary adjustments to (926) their machines was necessary, whether or not they could be converted at an expense that would make it profitable for them to produce such a can.

In the case of the nonreturnable bottles that we were considering, shapes were an important factor. We had

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wooden molds of every size, shape and description you could think of in trying to determine which package we thought would be most marketable, and also a shape that the can, the bottle company, could produce.

The weight of the packages in the case of the glass containers was important because they are translated into freight costs when it gets down to the wholesaler.

Q. Now what, if any, problems are connected with determining the cost of the item?

A. Well, our major problem there is to be able to cost the item or get a cost for the item which would permit us to sell it at a profit, and which would permit us to market it to meet the pricing situation that we were interested in meeting, and that is that of the strong local and regional brands.

Q. Now, in connection with this costing problem, would you please explain precisely what the nature of the problem is. For example, how do you sell from the brewery to wholesalers?

A. We sell f.o.b. our plants to the wholesaler.

Q. What was the nature of the problem, if any, that had to be resolved in the light of that factor?

(927) A. We would have to determine whether the tentative f.o.b.'s that we were able to establish as a result of our asking our production department for cost figures would permit us to reach the retailer and the ultimate consumer at the price that we wanted. So we had to take that f.o.b. price from our brewery and add to it the freight from our brewery to the destination, the tax on the wholesaler's markup in order to determine whether or not we could meet the marketing situation that we wanted to meet.

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Q. With that new package?

A. With the new package; that is right.

Q. I show you RX-155, and ask you what it is.

(The document referred to was marked as Respondent's Exhibit No. 155, for identification.)

The Witness: It is a letter dated September 1st from Mr. F. P. Rollins to Mr. J. E. Barsi, and is a reply to his memorandum which asked for the regional managers' agreement as to the markups which we proposed our wholesalers have for these particular packages.

By Mr. Barton:

Q. I show you RX-156, and ask you what it is.

(The document referred to was marked as Respondent's Exhibit No. 156, for identification.)

The Witness: This is a letter from Mr. J. A. Huebner to Mr. Barsi. Mr. Huebner is one of our regional (928) sales managers. The letter is dated September 1, 1954, and indicates his agreement with the proposed recommended wholesaler markups.

By Mr. Barton:

Q. Mr. Hallquist, were letters similar to RX-155 and 156 received from regional managers in other territories at or about the dates noted on RX-155 and 156?

A. Yes, sir. They were received from all of the regional managers except the regional manager from what we call our Mountain and Pacific region, that is, John Flanigan.

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Mr. Barton: Your Honor, I offer in evidence RX-155 and 156.

Hearing Examiner Hier: The same objection?

Mr. Mayer: Yes, sir.

Hearing Examiner Hier: The same rulings. 155 and 156 are admitted in evidence.

(The documents referred to, heretofore marked as Respondent's Exhibits Nos. 155 and 156 for identification, were received in evidence.)

Hearing Examiner Hier: Mr. Hallquist, you have been outlining the difficulties of new packages, this and that and the other way of getting into these off-premise sales. You make Budweiser and Michelob by the most expensive brewing process there is, don't you?

The Witness: We think it is; yes, sir.

(929) Hearing Examiner Hier: In these discussions did it come up to you that you could put out a cheaper beer to fight these cheaper beers?

The Witness: Yes, we did eventually do that.

Hearing Examiner Hier: I mean at this time, was it considered?

The Witness: At this early time?

Hearing Examiner Hier: Yes.

The Witness: I would say this: that the conversation about a lower priced beer — I don't like to call it a cheaper beer, I think it would be a good beer —

Hearing Examiner Hier: All right.

The Witness: Our wholesalers in this survey form were asking for it, wholesalers individually, and I happened to have the region of the country where most of that kind of beer is sold, that is close to our plant. They

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were constantly asking for it, and I would say that that was given serious consideration.

Hearing Examiner Hier: What was the resistance to it?

The Witness: Our sales manager, for one thing. He didn't feel, and he was very strong about this situation, that if we had two beers, our entire selling organization would have to divide their effort. In many instances our wholesalers, some of whom are exclusive in the better markets, (930) instead of devoting all their time to Budweiser, which is our baby, they would devote some of their time necessarily to the other brand.

Now, if the other brand achieved better sales success because of local marketing conditions than Budweiser had in that market, then they wouldn't be putting hardly any effort on Budweiser. In other words, we have had the thought in our mind for a long, long time. But I mean that is a powerful reason which is that you might divide the effort of your organization.

Hearing Examiner Hier: You wouldn't have any tax problem, you wouldn't have any packaging problem. The only problem I could see would be a productive problem. I don't know how much disruption it would take in your brewery to run the beer through by two different processes; I don't know anything about that, but you wouldn't have any machinery replacement problem, I take it. The only problem you would have is this so-called division of effort?

The Witness: But there is another problem which is a major one, and that is if you are going to introduce a new product into a market it is a heck of a costly thing.

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Hearing Examiner Hier: Costly thing in what respect? Advertising?

The Witness: You have to advertise, you have got to support it.

(931) Hearing Examiner Hier: Well, even so—

The Witness: And during the period in which you are initially distributing this product you take away from your other major activity, and we needed every bit of effort—that is our sales manager's thinking—that we needed every bit of our effort undiluted by anything on Budweiser because, after all, that is what Anheuser Busch was built on, Budweiser.

Hearing Examiner Hier: Well, as a layman it occurs to me that if you build up your new beer, even at the expense of Budweiser, that you increased your volume and you made your money, it doesn't make any difference what the income comes from, does it?

The Witness: Well, your profit picture would be a lot less favorable with the other brand.

Hearing Examiner Hier: Your margins would be less?

The Witness: As compared to Budweiser.

The other thing is—I have had some experience. I have been the fellow that has kicked off Busch Lager, started it out, and I have started out our new brand Busch Bavarian.

Hearing Examiner Hier: That is all post-price changes.

The Witness: But, believe me—

Mr. Barton: It is not unrelated to the price change. Your Honor.

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The Witness (continuing): —it is not easy. We (932) have not had all the sales success that we have wanted.

Hearing Examiner Hier: Who is the sales manager?

The Witness: Barsi.

Hearing Examiner Hier: Mr. Barsi?

The Witness: Yes.

Hearing Examiner Hier: Go ahead.

By Mr. Barton:

Q. Mr. Hallquist, you have told us about the legal problems, the tax problems, the production problems that must be dealt with, satisfied and solved before new packages could be introduced. What, if any, are the merchandising problems that must be considered and solved in the introduction of new packages?

A. I would say the first one would be the establishment of the selling price in the particular market in which you wanted to introduce the new package. In order to get that you will recall that I stated that you had to add to your f.o.b. price the taxes and the freight into the market, leaving a markup for the wholesaler.

(933) Now, the first thing we would have, and incidentally the margins on the 10-ounce packages and on the fifths were, in general, less than they were on the standard line of Budweiser packages, by that I mean our 12-ounce bottles, our 12-ounce cans, our quarts and our seven-ounce.

Q. You mean the wholesaler's margin?

A. The wholesaler's mark-up.

Now, it required a selling job to get the wholesaler to work on such a mark-up. If he objected, it would mean

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that we would have to sell the package in his market at a price higher than the brands which we wanted to compete with, those of the strong regionals and locals.

If we introduced a package in those markets, we knew that we wouldn't be successful in getting volume.

Q. You mean if you didn't introduce at the right price?

A. At the right price.

There were other problems, naturally. Some wholesalers didn't want the package. They felt that it wouldn't be salable in their market. They knew they would have to go in and ask the retailer to give them, let us say, twice as much shelf space, twice as much refrigerator space. They know that the retailer has been bombarded by every brewer with a desire to put the entire line into the retail outlet, and there is a real barrier to getting distribution.

For that reason some wholesalers had to be sold on the (1934) idea of going into the market with the ten as well as the twelve.

Q. What, if any, consideration had to be given to the problem of being relatively certain that you were going to get the kind of sales in any particular market you went into in a relatively short period?

A. Well, that is one reason we had to sell the wholesaler on the mark-up that we were going to recommend for him. We had to sell him on the idea that additional volume, that the right volume, would mean additional profit for him.

He had to be thoroughly sold on the idea so that when he went out into the market that he did everything possible thing he could to assure the success of the brand.

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Distribution had to be gotten quickly, because, generally speaking, the advertising for the introduction of the new package was time-tabled for a certain date. It was important that everything that could be done to make the test successful was done, because we couldn't afford to have failures in these test markets in which we were putting the packages.

That might affect the eventual sale of the package in the rest of the country or other markets.

(The papers referred to were marked Respondent's Exhibits 157 and 158 were marked for identification.)

By Mr. Barton:

Q. I show you RX-157 and 158, and ask you what they are.

(935) A. These are comparative price schedules which list the present packages versus the proposed packages. They list, well, for example, in Schofield, Wisconsin the selling price of Budweiser 12 32 ounce non-returnable bottle -- that is the established package in the market -- shows the selling price of local brand in that market, it shows the proposed selling price to the retailer of the new fifth non-returnable package; it shows f.o.b. the freight, the state tax, the wholesaler's costs of acquisition, and the mark-up which we were recommending that the wholesaler take.

Hearing Examiner Hier: This seems to indicate that the wholesaler's mark-up on the new package would be greater, substantially greater, than it was on the old package, or maybe I am misconstruing this, and that is the

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reason why I want to find out. One is 14.1 percent, and the other is 9.8.

The Witness: You are correct about this one; you are correct about that in this instance.

By Mr. Barton:

Q. Mr. Hallquist, how many of these pricing—let me put it this way: How many markets—first of all, what is 158?

A. 158 is a comparative price schedule for Metropolis, Illinois, and shows the comparison between the 24 12-ounce Budweiser cans, the regional brands, Stag and Falstaff, and the proposed selling price for the 24 10-ounce Budweiser can.

(936) Q. Now, what is the fact as to the comparative dollar mark-up for the wholesaler on the 24 12 and the 24 10-ounce packages?

A. In the 24 10 you would receive a better mark-up on the 12-ounce can dollar-wise.

Q. But he gets a better percentage mark-up on the 10-ounce can?

A. He would have a slightly better percentage mark-up on the 10-ounce can.

Mr. Barton: Your Honor, I offer in evidence RX-157 and 158.

Hearing Examiner Hier: I take it these were just samples?

Mr. Barton: Yes, Your Honor, and I am going to ask a question about it.

Mr. Mayer: Same objection.

Hearing Examiner Hier: Same ruling.

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(The documents heretofore marked Respondent's Exhibits 157 and 158 for identification, were received in evidence.)

By Mr. Barton:

Q. Mr. Hallquist, for how many markets were analyses similar to RX-157 and 158 prepared?

A. Well, there are well over a hundred. That is contained in this book here, and they are for seven of the regions of (937) the country that I outlined.

Q. In other words, for the seven regions other than the West Coast?

A. Other than the West Coast.

Q. Now, what is the fact as to the situation with respect to this wholesale mark-up being, on the new packages, being, greater than the wholesale mark-up percentage-wise on the comparable old packages in areas that are further distant away from the St. Louis brewery than are Schofield, Wisconsin, and Metropolis, Illinois?

A. I don't understand what you mean.

Q. Well, is there any relationship between the wholesaler's mark-up and the amount of freight that it takes to get the package into the particular market?

A. That is true. In many areas the increased freight factor would necessitate cutting down the wholesaler's mark-up if he were to sell the package in a market in order that you could meet the price of the fast-selling local or regional brand.

Q. In other words, as I understand it, the freight and the wholesaler's mark-up — the freight is a variable. Those are the only two variable factors there, and those are freight and mark-up.

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Hearing Examiner Hier: How long were you playing around with this idea of 10-ounce cans? I notice these (938) exhibits are dated in February of 1955.

The Witness: Yes. We began consideration of the new packages in the early part of 1954, and I think some of the documents that we have —

Mr. Barton: There is a document in evidence dated February —

The Witness: I think my memorandum there that was just entered is in June, right? Or May—this one was June 4, 1954; that is the one I had in mind, and I had been working on that situation for over thirty days before I wrote the memorandum.

By Mr. Barton:

Q. Well, of course, your memorandum does not have anything to do with the 10-ounce —

A. With the actual establishment of them, no.

Mr. Barton: I think, Your Honor, the testimony to date is that the 10-ounce can was a series of memoranda which were sent to various people to look into various facets of the problems in February — well, it was late January or early February of 1954, and the witness has testified that the problems that had to be solved, production problems, legal problems, tax problems, and merchandising problems. These RX-155 and 156 are letters from the regional managers.

Hearing Examiner Hier: I understand that.

Mr. Barton: When the planning had gotten along to (939) a rather advanced stage as to prices.

Hearing Examiner Hier: What strikes me though, Mr. Barton, is that apparently your client did not wait until this package, change in package, or additional pack-

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age was worked out to engage in this price tinkering in St. Louis County; in other words, they didn't get this thing worked out first. They went ahead and tried that immediately.

Mr. Barton: Your Honor, I think that is perfectly clear, that this matter, the matter of the introduction of new packages, was not something that could be done overnight. In other words, for all of the reasons which we have been putting in through the witnesses, that the nature of the problem and the introduction of the new packages, the legal problem, the tax problem, the production problem, the merchandising problem, the problem created by the fact that there was not a specifically definite price in every market where you want to market these packages, which has to be met, but a variable price in every market that you have to get your product to it at the right price.

Hearing Examiner Hier: The point I want to make is that this price experiment was one approach.

The Witness: That is right.

Mr. Barton: That is right.

Hearing Examiner Hier: This 10-ounce package was another approach?

(940) Mr. Barton: They are not unrelated, however.

Hearing Examiner Hier: I know, but they still are different. You did not exhaust the various possibilities that have been testified to here before you took the plunge on this pricing experiment.

Mr. Barton: That is true, Your Honor. They were going forward simultaneously. The matter was a developing one, and the problem of finding the answer was going forward on several fronts at the same time.

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Your Honor, would this be a good time to take a recess?

Hearing Examiner Hier: We will quit now until 9 o'clock in the morning.

(Whereupon, at 4:05 p. m., the hearing in the above entitled matter was recessed to reconvene at 9:00 a.m., Friday, December 16, 1955.)

(941) Friday, December 16, 1955

Met, pursuant to recess, at 9:00 a.m.

Before: Frank Hier, Hearing Examiner.

Appearances as before.

(942) P R O C E E D I N G S

Hearing Examiner Hier: All right, go ahead.

JOHN R. HALLQUIST, JR. was thereupon called as a witness on behalf of the Respondent and, having been first duly sworn, testified as follows:

(The document referred to was marked as Respondent's Exhibit 158-A for identification.)

Direct Examination—Resumed by Mr. Barton:

Mr. Hallquist, I show you Exhibit RX-158-A and ask you what it is?

A. This is a copy of a memorandum written by Mr. Barsi to Mr. A. D. Orthwein, who was Vice President in Charge of Production, on January 28, 1954.

Q. What does the memorandum relate to?

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A. It relates to the discussions that were held during the regional meetings concerning the feasibility and desirability of producing various different sized containers than those which were presently in our line, and this one refers specifically to an 11-ounce returnable bottle and an 8-ounce non-returnable bottle.

Q. What is the fact as to whether or not these specific packages referred to in 158-A were two of a number of packages that were being considered at that time?

A. Yes, sir. In the early stages we studied every container (943) size ranging from a six up to a twelve, and in the size which was eventually picked as a fifth, a 25 and 5/10th ounces, we ranged everywhere from 20 to 28 ounces in determining the package that was finally selected as being a package we thought we could market competitively with popular priced beers in the various local markets.

Mr. Barton: Your Honor, I offer in evidence RX-158-A.

Mr. Mayer: Same objection.

Hearing Examiner Hier: Overruled; admitted in evidence.

(The document referred to, heretofore marked for identification Respondent's Exhibit 158-A was received in evidence.)

By Mr. Barton:

Q. What was Mr. Barsi's position on January 28, 1954, Mr. Hallquist?

A. Vice President in Charge of the Brewery Sales Division.

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Q. Mr. Hallquist, I believe yesterday in the closing stages we were talking about RX-157 and 158, which had been admitted in evidence.

A. That is correct, sir.

Q. And I asked you whether these were representative of other pricing analyses on an individual market basis which had been made?

(944) A. That is correct.

Q. Now, as a matter of fact, how many individual markets have been analyzed in terms of the similar data in the latter part of 1954 and in the early part of 1955?

A. In the neighborhood of 200, Mr. Barton. They are contained in that black binder.

Mr. Barton: I did not, your Honor, desire to offer in evidence this large black binder. I am willing to give it to counsel for the Commission to examine, if desired.

Mr. Mayer: I don't wish to look at it.

Hearing Examiner Hier: All right.

By Mr. Barton:

Q. What is the fact, Mr. Hallquist, as to whether or not the analysis of the individual markets in terms of the prices which the popular priced beers were selling at the price to retailers and the price to the consumer level in terms of the prices which you had to have on your new packages, is one of the latter stages of the planning with respect to the introduction of your packages?

A. That is the last one; yes, sir.

Q. And before that there must be a solution to the problem of the legality of the packages, the production problems in connection with the packages and all of the other problems?

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A. Whether or not the costs will permit a pricing which will let you reach the markets you are seeking.

(945) Hearing Examiner Hier: Now, what would happen with reference to that, Mr. Hallquist, and where are you selling today 10-ounce cans of beer? Are you going to get into that?

Mr. Barton: Yes, Your Honor, we are going into that detail.

By Mr. Barton:

Q. Now, Mr. Hallquist, would it be the fact that there would be certain—there would be only certain—markets in which you could introduce these new packages at a competitive price?

A. That is very true.

Q. What were the factors which caused the situation that you could introduce the new packages in only certain markets?

A. Well, I testified previously that after you had established an f.o.b. price you had to take into account the two variable factors, one of which was freight, and the other of which was the mark-up which remained for the wholesaler.

Now, if the mark-up was insufficient for the wholesaler to sell the package profitably in meeting the price of local and regional brands, then it wasn't possible to sell the package in that market and expect any sales success.

Hearing Examiner Hier: Well, the mark-up depended on the freight, plus cost of production, of course.

The Witness: And also the competitive price situation that you were expecting to meet.

(946) Hearing Examiner Hier: Yes.

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By Mr. Barton:

Q. In other words, the competitive price situation was the practical outside limit of the price at which that package could be retailed in the market?

A. That is correct.

Q. And the other two factors that intervene between the f.o.b. and that competitive price were the freight to the market from the brewery and the wholesaler's mark-up?

A. And the only one that could be termed strictly variable would be the wholesaler's mark-up.

Q. Mr. Hallquist, were there other problems that had to be solved in connection with the introduction of these new packages besides the problems that you have referred to heretofore?

A. Well, yes. The matter of getting, let us say, legal clearance in those states where the alcohol control commissions were the ruling agency in so far as the sale of specifically sized containers in a market was concerned, and in that connection we had very considerable opposition from some brewers and some brewer associations.

In fact, in some markets local brewers used newspaper advertising to discredit the smaller-sized package, and warning the public to beware of a 10-ounce package. Some of it was particularly vicious advertising in that they also alleged that beers that were shipped for long distances suffered quality-wise (947) as compared to beers that were produced locally, which I don't think was germane to the issue at hand at all.

(The document referred to was marked as Respondent's Exhibit 159 for identification.)

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By Mr. Barton:

Q. Mr. Hallquist, I show you RX-159, and ask you what it is?

A. This is a copy of an advertisement in the Washington Post and Times-Herald on Wednesday, February 9, 1955 by the Valley Forge Distributing Company, and relates that "Here are the facts that have not been told about the full 12-ounce can."

Mr. Mayer: I have to interrupt, Mr. Examiner, but I don't think the witness should explain this exhibit, but merely identify it and offer it, and we will find out if it is relevant then.

Mr. Barton: I quite agree.

By Mr. Barton:

Q. Let me ask you one further question, Mr. Hallquist: Is the Valley Forge Beer one of your important competitors in the Washington market?

A. Very definitely so.

Mr. Barton: Now, if Your Honor please, I offer RX-159 in evidence.

Mr. Mayer: I, of course, object to this on the grounds of relevancy and materiality. I don't think any action taken by a competitor in response to an action by Budweiser in (948) another market to defend a price discrimination in St. Louis can possibly be relevant to the proceeding.

Hearing Examiner Hier: The only relevancy I see, Mr. Mayer, is what you might call showing some of the problems that they were up against which was, perhaps, part and parcel of the entire picture. I mean, if the picture is relevant, perhaps some of the problems which they

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sought to solve are relevant also. This is pretty far fetched though, Mr. Barton.

Mr. Barton: I think Your Honor has put your finger on the relevancy of it, and that is entirely the reason for the offer, that it is offered to illustrate the nature of the problem that faces a brewery, a company, which is having serious sales reverses, and is attempting to react to that by various means.

Hearing Examiner Hier: This is an attempt to increase sales resistance?

Mr. Barton: That is right.

Hearing Examiner Hier: To what is described here as an innovation in the beer industry.

Mr. Barton: That is right.

Hearing Examiner Hier: For that purpose, and for that purpose only, I think it may be relevant. It is admitted for that purpose only.

(The document referred to, heretofore marked for identification Respondent's Exhibit 159 was received in (949) evidence.)

Hearing Examiner Hier: I agree with Mr. Mayer now, Mr. Barton, I might as well make it clear, that boycotts or attempted boycotts or unfair advertising or anything else which this exhibit may, in your opinion, exemplify, of course, is not a defense to a price discrimination case.

Mr. Barton: We are not offering it for that purpose. Your Honor.

Hearing Examiner Hier: All right.

(The documents referred to were marked as Respondent's Exhibits 160 and 161 for identification.)

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By Mr. Barton:

Q. I show you RX-160 and 161 and ask you what they are, Mr. Hallquist?

Hearing Examiner Hier: They show on their face what they are, Mr. Barton; we can dispense with the identification.

Mr. Barton: I will just identify them for the record. RX-160 is an advertisement of the News-Tribune of —

Hearing Examiner Hier: It is a Massachusetts paper.

Mr. Barton: (continuing) — of the Harvard Brewing Company of February 9, 1955, a Massachusetts paper; and RX-161 is an advertisement of the Harvard Brewing Company in the Boston Post of February 23, 1955.

Hearing Examiner Hier: They are in the same category as the previous exhibit, and will be admitted with the same (950) limitations and under the same circumstances.

(The documents referred to, heretofore marked for identification Respondent's Exhibits 160 and 161 were received in evidence.)

(The document referred to was marked as Respondent's Exhibit 162-A through -L for identification.)

By Mr. Barton:

Q. I show you, Mr. Hallquist, RX-162-A through -L, and ask you what it is?

A. This is a meeting guide for the introductory meetings of the 10-ounce can and the fifth bottle.

Q. And you say a meeting guide; what do you mean, a meeting guide for meetings to be held of whom?

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A. With our own people, our own sales people, and wholesaler organizations in markets in which the packages were to be introduced in a short while; and it gave sales tips to our people to try to give them information as to how best to present the packages to the retailer, and what other action the sales people should take.

Q. What is the approximate date of RX-162-A through -L?

A. About September 1, 1955.

Q. And what — I think you said —

A. Excuse me, that was September 1, 1954.

Q. 1954, was it not?

A. Yes, sir.

(951) Q. I think you said that it covered the products, the 10 —

A. The 10-ounce can and the fifth bottle.

Mr. Barton: And the fifth bottle.

38 Your Honor, I offer in evidence RX-162 A through -L.

Hearing Examiner Hier: Same objection?

Mr. Mayer: Yes, sir.

Hearing Examiner Hier: The same ruling. 162-A through -L is admitted in evidence.

(The document referred to, heretofore marked for identification Respondent's Exhibit 162-A through -L was received in evidence.)

(The document referred to was marked as Respondent's 163-A through -E for identification.)

By Mr. Barton:

Q. I show you RX-163-A through -E and ask you what it is?

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A. This is also a suggested meeting guide and it is for the Bud Fifth alone, prepared for the use of the regional sales manager when he was holding meetings with wholesaler organizations where we were, in whose markets we were, about to begin sales of the Bud Fifth.

Q. What is the approximate date of RX-163?

A. This was prepared a very short time after the meeting guide or the combined purpose of kicking off the Bud Fifth and 10-ounce can.

Q. And that was shortly after September 1, 1951?

(1952) A. That is correct.

Mr. Barton: I offer RX-163-A through -E in evidence.

Mr. Mayer: Same objection.

Hearing Examiner Hier: Same ruling; admitted in evidence.

(The document referred to, heretofore marked for identification Respondent's Exhibit 163-A through -E was received in evidence.)

(The document referred to was marked as Respondent's Exhibit 164-A through -E for identification.)

By Mr. Barton:

Q. I show you RX-164-A through -E and ask you what it is?

A. This is a suggested meeting guide for regional sales managers in their introductory meeting with wholesalers who were about to begin the distribution of the 10-ounce Budweiser can. It also gave an outline of how the meeting should be conducted, and the pertinent selling points on the 10-ounce package.

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Q. What was the approximate date of 164-A through -E?

A. In September, 1954.

Mr. Barton: I offer in evidence 164-A through -E. Your Honor.

Hearing Examiner Hier: Same objection?

Mr. Mayer: Yes, sir.

Hearing Examiner Hier: Same ruling.

(953) (The document referred to, heretofore marked for identification Respondent's Exhibit 164-A through -E was received in evidence.)

(The documents referred to were marked as Respondent's Exhibits 165, 166 and 167 for identification.)

By Mr. Barton:

Q. I show you, Mr. Hallquist, RX-165, 166, and 167 and ask you what they are? I might say why don't we take them individually, and let the first one be 165.

A. 165 is a map of the United States, and it is entitled, "Ten-Ounce Can Markets," and this, incidentally, is as of March 31, 1955.

The map has not been brought up to date since that time, and it reflects the distribution situation at that particular time.

Q. Of 10-ounce cans?

A. Of 10-ounce cans.

The areas that are solidly colored — you can't tell it on the photostat — are the areas in which the 10-ounce can had been introduced up until that date, March 31.

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The areas that have the diagonally drawn lines through them are the states in which at that time the state laws or state regulatory bodies would not permit the sale of the 10-ounce can.

Hearing Examiner Hier: And the uncolored areas, I (64) take it, were virgin territory?

The Witness: Yes, sir. After our testing had been completed to a greater extent, we planned to move into additional markets.

Hearing Examiner Hier: Well now, how about bringing it down to date? Have you gone into any further markets?

The Witness: Yes, sir; we have.

Mr. Barton: That will be our next item of evidence.

Hearing Examiner Hier: All right.

Mr. Barton: I offer RX-165 in evidence.

Mr. Mayer: Same objection.

Hearing Examiner Hier: Same objection? Same ruling. 165 will be received.

(The document referred to, heretofore marked for identification Respondent's Exhibit 165 was received in evidence.)

By Mr. Barton:

Q. What is RX-166?

A. This is a map of the United States on which the distribution pattern of the 12-fifth non-returnable bottle is portrayed as of March 31, 1955.

Q. What is the explanation of the hatching?

A. The solidly colored areas are the areas in which the fifth had been introduced up until that date, and the

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the areas which are shaded with a diagonally drawn line are the states in which it (955) was not legal at that time to sell the package.

Mr. Barton: I offer RX-166 in evidence.

Mr. Mayer: Same objection.

Hearing Examiner Hier: Same ruling.

(The document referred to, heretofore marked for identification Respondent's Exhibit 166 was received in evidence.)

By Mr. Barton:

Q. What is the explanation with respect to RX-167?

A. On this map is indicated the 10-ounce non-returnable bottle markets in which we were selling as of March 31, 1955. Those are indicated by the solidly colored areas, and again the diagonally drawn lines across states indicate states in which the package is not legal.

Mr. Barton: I offer RX-167 in evidence.

Mr. Mayer: No objection.

Hearing Examiner Hier: Admitted.

(The document referred to, heretofore marked for identification Respondent's Exhibit 167 was received in evidence.)

By Mr. Barton:

Q. Mr. Hallquist, what is the fact as to whether or not RX-165 through 167 were or were not prepared for this litigation?

A. They were not.

Hearing Examiner Hier: It wouldn't make any difference (956) anyhow.

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By Mr. Barton:

Q Mr. Hallquist, are efforts still being made Anheuser-Busch to obtain favorable rulings from those states which you stated would not permit the marketing as of the date of March 31, 1955 of these packages?

A. Very definitely so.

Mr. Mayer: I object to that; that is not relevant at all to this defense, is it?

Hearing Examiner Hier: You want to know whether he is trying to get those states he presently cannot get into, to let them get into?

Mr. Barton: That is right, Your Honor.

Hearing Examiner Hier: Well, I don't think it makes much difference. It simply shows what I think everybody can assume anyhow. He is trying to sell the beer every place he can. You may take the answer, Mr. Reporter. He answered, did he not?

Mr. Barton: Yes, sir.

By Mr. Barton:

Q Now, Mr. Hallquist, did the management of Anheuser-Busch find that the introduction of new packages, the 10-ounce can and the fifth, was the entire answer to the price problem?

A. No, sir.

Hearing Examiner Hier: I don't have it yet in my mind. (957) though, gentlemen — maybe it has escaped me here — these maps show this situation as of March 31, 1955. But when did this testing of these various sized containers begin?

The Witness: I don't know the exact date.

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(The document referred to was marked as Respondent's Exhibit 173 for identification.)

By Mr. Barton:

Q. I show you RX-173, Mr. Hallquist.

Hearing Examiner Hier: It is coming along!

Mr. Barton: Yes, Your Honor. I think we might as well put it in now; we are putting it a little ahead because there are products that were put in—we planned to put it in later—but I think it will clear up the record.

By Mr. Barton:

Q. I show you RX-173, and ask you what it is?

A. This is a table and is headed "New Packages and New Products Introduced By Anheuser-Busch Since January 1, 1954 To Meet Competition."

The report covers the period January 1, 1954 through September 30, 1955. There are headings for Budweiser-Busch Lager, and Busch Bavarian Beers.

Also under the Budweiser heading are listed the 10-ounce cans, the 10-ounce non-returnable bottle, the 10-ounce returnable bottle, the fifth non-returnable bottles and the fifth returnable bottles.

(958) Under each one of those we indicate the month that it was first sold in a state, and the states are all listed on the extreme lefthand side of the form.

Q. Those are the states in which any one of these products has been introduced?

A. Introduced, yes; and the number of markets in the state which were shipped into the state in 1955.

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For example, in Alabama we first sold the 10-ounce can in December, 1954, and we have shipped it to a total of nine wholesaler locations, shipping points, in that state in 1955.

Q. What is the earliest date in which the 10-ounce can was introduced any place, according to this map?

A. In December, 1954 the 10-ounce non-returnable bottle—in December, 1954; the 10-ounce returnable bottles in April of 1955; the fifth non-returnable bottles, the first in New Jersey, in November of 1954; the fifth returnable bottles, the first introduction of that was in March of 1955.

Hearing Examiner Hier: Then summarizing there were none of these introduced anywhere prior to your price reductions in St. Louis?

The Witness: No, sir. We didn't have the package, we didn't have the need for the package, at that time.

By Mr. Barton:

Q. In other words, you were not able—what is the fact as to how long it took you to get the packages out in the market after (1959) the initial planning was started?

A. Well, from the time that we first began our consideration it was almost a year.

Hearing Examiner Hier: That initial planning does not mean too much, Mr. Barton. I mean, I can get an idea in October and not even get to thinking about it seriously before the following April.

How long did it take you after the decision was once made to introduce 10-ounce cans where, if and how you could, and where it was feasible, before they were actu-

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ally introduced? It seems to me that is the important consideration.

Mr. Barton: I think you are right.

The Witness: I would say eight months.

Hearing Examiner Hier: Eight months? All right.

Would that same approximation fit the fifth; the fifth returnable and non-returnable, and the 10-ounce returnable and non-returnable?

The Witness: Approximately so; yes, sir.

Hearing Examiner Hier: All right.

Mr. Barton: Your Honor, I can wait or offer it now.

Hearing Examiner Hier: You can offer it now.

Mr. Barton: I offer RX-173 in evidence.

Mr. Mayer: Same objection.

Hearing Examiner Hier: Same ruling. 173 is admitted.

(The document referred to, heretofore marked for (960) identification Respondent's Exhibit 173 was received in evidence.)

By Mr. Barton:

Q. Mr. Hallquist, I believe I asked you whether the mere introduction of the new packages was considered by Anheuser-Busch to be a complete answer to this problem of price competition with the regional, important regional beers in various markets of the country, and you told me that it was not. Now, would you please explain the further problems that you had?

A. Well, we found that in many markets we had some serious problems in trying to market the 10-ounce container in conjunction with the 12-ounce container, so that

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In April of this year we determined to take some further steps and experimenting, and in the City of St. Joseph, Missouri, we removed all of the 12-ounce packages that we were at that time selling, the 12-ounce returnable bottle, the 12-ounce can, the 12 32-ounce package, in order that the only packages that we would have would be the 10-ounce containers and the fifth containers.

That introduction was made without the benefit of any large-scale advertising campaign. We extended such a test to Shreveport, Louisiana, where we removed all of the 12-ounce and 12/32-ounce containers from the market, and substituted for them the 10-ounce containers. That experiment was with the benefit of a full-scale advertising campaign with special copy in those markets.

(961) In those markets, of course, we met the locally-priced beers, such as Falstaff and other regional and local producers. Those tests have been extended to other areas. In fact, such a test is going on right now in the State of Utah.

Q. Mr. Hallquist, you mentioned back in your examination three avenues which have been followed in this developing effort to meet the competitive problem, you have, and one of them is that you have introduced new products.

Now, will you tell the Examiner the circumstances under which these new products were considered and introduced?

A. Well, Busch Lager was the first new product which we developed and introduced. The planning for that began in the fall of 1954 and, as you know, was marketed in the St. Louis area beginning March 15, 1955.

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Q. What was the circumstance which led up to the marketing of Busch Lager?

A. I am not sure just what you mean, Mr. Barton.

(The document referred to was marked as Respondent's Exhibit 167-A for identification.)

By Mr. Barton:

Q. I show you RX-167-A and ask you what it is?

A. This is a compilation of the annual total of sales in the St. Louis market for package Budweiser, both on-premise and off-premise in 1953, 1954, and the first nine months of 1955.

It indicates that in 1954 we had an increase in sales of (962) Budweiser through the on-premise outlets. It was a fair increase, and it indicated that Budweiser at the popular prices did get some additional business through the on-premise outlets.

However, the major share of our sales increase was through the off-premise outlets. In that avenue our sales better than tripled during 1954 as compared to 1953, and for that reason that was one of the factors in our decision to market a popular-priced brand of beer in St. Louis.

Another factor in that decision was the fact that during the time of our meeting of local prices in St. Louis with Budweiser we had never attained a share of the market which was as much as some of our competitors had had, let us say, during the preceding five years, and it raised a question in our mind as to whether or not there weren't a lot of people who didn't particularly care for the taste of Budweiser; and for that reason it was determined to bring out another brand of beer which would be competitive with the regionally produced brands.

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such as Falstaff and others, which would compete them in both taste-wise and price-wise.

Hearing Examiner Hier: Mr. Barton, is there a mistake in this exhibit?

Mr. Barton: How is that, Your Honor?

Hearing Examiner Hier: In 1953 you had 69 per cent of the market.

(963) Mr. Barton: No, that is 69 per cent of our sales.

Hearing Examiner Hier: Oh.

The Witness: Were in the on-premise.

Mr. Barton: They were in the on-premise outlets.

Hearing Examiner Hier: You took a decrease in 1954 even though the absolute total is much higher?

The Witness: Yes, our share of that.

Mr. Barton: Our distribution pattern as between on-premise and off-premise outlets switched to a more, what we considered to be, a more healthy position. In other words, Your Honor, as you will recall the testimony of Mr. Shine as to industry distribution —

Hearing Examiner Hier: Yes.

Mr. Barton: Your Honor, I offer in evidence 167-A.

Mr. Mayer: No objection.

Hearing Examiner Hier: Admitted.

(The document referred to, heretofore marked for identification Respondent's Exhibit 167-A was received in evidence.)

By Mr. Barton:

Q. You testified that it was in the fall of 1954 that this decision was made to look into producing a new beer. How long did it take to develop that?

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A. It took from the fall of 1954 until the time that we introduced the new product on March 15th.

(1964) Originally, the assignment was given to our brew masters to produce a different type of beer, a, let's say, lighter and milder type of beer, produce several different types so that our management could taste them and test them, and determine which, in their minds, would meet with public acceptance and could be sold competitively price-wise and taste-wise with brands such as Falstaff and other fast-growing regional and local competitors.

(The document referred to was marked as Respondent's Exhibit 168 for identification.)

By Mr. Barton:

Q. I show you RX-168, and ask you what it is?

A. This is a timetable which I prepared early in January for the introduction in St. Louis of both the 10-ounce returnable bottle and other 10-ounce packages, and the new product which we planned to introduce.

Q. You say you prepared this in January of 1955?

A. That is correct, sir.

(The document referred to was marked as Respondent's Exhibit 169 for identification.)

By Mr. Barton:

Q. I show you RX-169 and ask you what that is?

A. This is a copy of a memorandum I addressed to Mr. Barsi on February 16, 1955 in which I indicated that I was attaching a map which showed the areas in Mis-

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souri and Illinois in which our (965) wholesalers would be competitive with local brands of beer at the f.o.b. prices that I had listed, and asked for approval to proceed with the acquisition of point of sale material and other things that were necessary to be done to market the product.

(966) The document referred to was marked Respondent's Exhibit 170 for identification.)

By Mr. Barton:

Q. I show you RX-170 and ask you what it is.

Hearing Examiner Hier: Off the record.

(Discussion off the record.)

Hearing Examiner Hier: On the record.

Mr. Barton: I will strike that question.

By Mr. Barton:

Q. Mr. Hallquist, you described RX-168 as a timetable which was drawn up by you in January of 1954 for the introduction of Busch lager and the ten-ounce returnable bottle.

A. That is correct.

Q. In St. Louis, to synchronize with the restoration of Budweiser prices in St. Louis?

A. That is correct.

Q. Was that timetable changed subsequent to the preparation of RX-168?

A. Yes, sir; it was.

Q. I show you RX-170 and ask you what it is.

A. This is the revised timetable set forth in a memorandum by me to Mr. Barsi on February 24 and indi-

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icates that the original timetable for 10-ounce returnable Budweiser and Busch Lager had become obsolete and, therefore, I proposed the schedule that followed.

(967) Q. Would you please explain the significance of this revised timetable, the purpose of it and the consideration which led up to it?

A. Yes, we had determined that we would not market the 10-ounce returnable bottle and can in the City of St. Louis. Our reasons for that were that we didn't think it necessary or wise to sell Budweiser in these ten-ounce packages in the same prices as our regional and local competitors in St. Louis and, further, that we would be, in effect, competing with ourselves because the new product which we were bringing out was to sell at the same prices as the regional brands such as Falstaff and the others on the market.

Mr. Barton: Now, I offer in evidence RX-168, 169, 170.

Mr. Mayer: Same objection, Mr. Examiner.

Hearing Examiner Hier: Same ruling. The objections are overruled, and they are admitted into evidence, 168, 169 and 170.

(The documents referred to, heretofore marked for identification, Respondent's Exhibits 168, 169, 170, were received in evidence.)

By Mr. Barton:

Q. What was the timing for the introduction of Busch Lager in connection with the increase in the price of Budweiser in St. Louis?

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(968) A. In the original timetable we were going to introduce the 10-ounce returnable bottle and the can approximately March 15 and Busch Lager on about April 1.

After we had decided not to market it, the 10-ounce returnable bottle and the can in St. Louis, we moved the date for the introduction of Busch Lager up to March 15. Our reason for that, of course, was that we felt there would be a considerable shifting of buying habits after we increased the price of Budweiser and we wanted our Busch Lager in the market so that we could, at least, get an opportunity to sample some of those consumers with our new brand.

Q. What was the date on which you increased the price of Budweiser?

A. We announced the increase on February 16 and it became effective on March 1. We introduced Busch Lager on March 15.

Q. Now, Mr. Hallquist, what plans were made prior to March 1, 1955, with respect to the introduction of Busch Lager in markets outside St. Louis, the State of Missouri and the State of Illinois?

A. We also decided to test-market Busch Lager in seven wholesaler markets in the southern part of Texas.

(The document referred to was marked Respondent's Exhibit 171 for identification.)

By Mr. Barton:

Q. I show you RX-171 and ask you what it is?

(969) A. That is —

Q. That is RX-171 — no, the pages are numbered: 20 ahead.

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A. That is part of a folder which we had prepared and it is included inside of the folder.

Q. I see.

A. The folder was given to our wholesalers at the meeting in which we introduced Busch Lager to them.

Exhibit RX-171 is a sales meeting guide which was prepared in order that our wholesaler could hold a good sales meeting with his own sales organization.

Q. What was the main pitch made in the presentation?

A. Basically, up until this time, the wholesaler with Budweiser had been competing virtually in the national brand market, which is about 25 per cent of the total beer market.

With Busch Lager he would have an opportunity to get into the fast-growing local and regional brand field, or the popular-priced field and that, in effect, the wholesaler under that basis would have the opportunity of going after some part of a 100 per cent of the beer market. He would have Budweiser for the 25 per cent of the market, which was National Brands and, actually, that 25 per cent is slipping all the time and he would also have Busch Lager to go into the increasing popular-priced brand market.

Q. Mr. Hallquist, what is the fact as to whether or not the sales pitch as contained in RX-171, which you have just (970) referred to is not also the basic reason which Anheuser-Busch had for the introduction of Busch Lager?

A. Very definitely so.

Mr. Barton: I offer in evidence RX-171, your Honor.

Mr. Mayer: Same objection.

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Hearing Examiner Hier: Same ruling. 171 is admitted.

(The document referred to, heretofore marked for identification Respondent's Exhibit 171, was received in evidence.)

By Mr. Barton:

Q. Now, Mr. Hallquist, was there a decision to bring out any other new products, other than Busch Lager?

A. Yes, sir. We introduced Busch Bavarian, an additional popular-priced beer, in the entire state of Kansas and the Metropolitan area of Kansas City, Missouri, market. The sales began on August 28, 1955.

Q. Now, what was the purpose of introducing a new brand, Busch Bavarian, other than Busch Lager which had already been introduced?

A. Well, frankly, our sales success with Busch Lager wasn't what we had hoped for and we felt that an entirely new concept was necessary.

I might explain that when we started out with Busch (71) Lager we thought that it would be a good idea to identify it very closely with Budweiser, feeling that the Budweiser prestige might carry over into Busch Lager. The label on Busch Lager is very much the same as that of the Budweiser in that it makes use of our traditional colors. We advertise it as a product by the brewers of Budweiser.

Unfortunately, the beer wasn't too well received.

This is the sixth can pack of Busch Lager, I mean it is in the traditional Anheuser Busch red and green colors.

Q. In fact, it says, "by the brewers of Budweiser".

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A. By the brewers of Budweiser. That was the big pitch and we felt that the well-known name of Anheuser-Busch and Budweiser would help to carry the introduction of the brand.

However, in, I believe it was June of this year, or July, we weren't satisfied with the way Busch Lager was moving, the way it had been accepted, and we went into an entirely different approach to the problem.

Q. Please describe that different approach.

A. Well, we have got a new advertising agency for one thing. I mean the Gardner Advertising Agency was selected to handle the Busch Bavarian advertising and the copy. The basic idea in back of it is that we are separating it as widely as we can from Budweiser. We expect this product to stand on its own feet.

The other thing that we have is an entirely different (972) approach here in that we have tried to bring some romance into the marketing of this new beer. The mountain Alps, the snow it makes a very appetizing and appealing package in itself. There is a continuity in what we have done. The label is carried over into the point-of-sale material; the basic design of the label on the carton is carried over into point-of-sale material.

Q. Advertising?

A. Into consumer advertising. Even truck design is, truck painting design is, in the same general idea as this. In other words, it is a beer for America's new way of living, happy times, gay times. It is not as stilted or just stylized as that one is.

Q. You mean as the Lager?

A. That is right; the Busch Lager.

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Q. What, in fact, did you find was the appealability of the word "Lager" in connection with advertising of a beer?

A. Well, there are some people who think that they didn't want a Lager beer. I have run into that in New York in many instances of people who say that "I don't like Lager beer; I can't drink it."

Hearing Examiner Hier: What is the difference in the product in these cans?

The Witness: There was a very considerable difference in the original Busch Lager which had one taste. We (1973) determined in the early stages that apparently people didn't particularly like the taste either so that we changed the product very considerably.

Hearing Examiner Hier: Now, the change was not in the brewing process, but in the ingredients?

The Witness: In the taste.

Now, I am not a brewer, so I couldn't tell you what makes one taste a little different from the other.

Hearing Examiner Hier: What was the matter with Busch Lager, why didn't it sell? It wasn't all advertising, was it? There was something else. Was it taste?

The Witness: It was taste, definitely.

Hearing Examiner Hier: Doesn't it take a while to stabilize a new beer on the market? I mean, after you have got it on the market, doesn't it fluctuate back and forth, like working the bugs out of a new machine?

The Witness: I don't think I am qualified to answer, although I would say that once you have determined what you are going to do, then your controls can be such that you get that taste.

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Mr. Barton: Is your question directed to the controls on the quality?

Hearing Examiner Hier: Yes, production controls.

The Witness: I don't think so. I do think if you made a beer that didn't meet public taste then you would work (974) toward changing that taste and, perhaps, go through an evolution of changes before you found the one that you wanted.

Hearing Examiner Hier: Well, this Bavarian beer is lager, isn't it?

The Witness: Well, lager means aging; it is not aged as long as Budweiser, let me put it that way.

Hearing Examiner Hier: No, I know that Budweiser uses this other process, but Bavarian is aged or lagered just the same as Busch, isn't it?

The Witness: That is correct, sir.

Mr. Barton: All beer, in a sense, is lagered.

Hearing Examiner Hier: Yes, except some of these fly-by-night breweries that sprang up after the prohibition era.

Mr. Mayer: May we go off the record for a moment? (Off the record discussion.)

By Mr. Barton:

Q. Mr. Hallquist, I show you RX-172 and ask you what it is?

(The document referred to was marked Respondent's Exhibit 172 for identification.)

A. Well, this is a talk that was prepared for Mr. Huebner, who was the Regional Sales Manager, in whose

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sales area Kansas and Kansas City, Missouri, are located. This was prepared for the introductory meetings of Busch Bavarian to our wholesalers in that area.

(75) Mr. Barton: Your Honor, I offer in evidence 172.

Mr. Mayer: Same objection.

Hearing Examiner Hier: Same ruling; admitted.

(The document referred to, heretofore marked for identification Respondent's Exhibit 172, was received in evidence.)

By Mr. Barton:

Q. Mr. Hallquist, what has been your association, if any, with the introduction of Busch Bavarian?

A. I have worked very closely with it, Mr. Barton.

Q. Will you please tell the Examiner what you have done in connection with it?

A. I have been — and this concerns both Busch Lager and Busch Bavarian — I have been in from the very beginning stages, the development of Busch Lager, the carton designs, the acquisition of the cartons, crowns and other materials, the preparation of the point-of-sale material.

I have set up and held the meetings with the wholesalers in the areas that we were going to market the product, develop the pricing factors. In fact, I think I have done about everything, not by myself but in conjunction with other departments of our company.

Q. With particular attention to Busch Bavarian, what was your connection?

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A. At this particular time I began in the initial stages (1976) with Busch Bavarian, before it was ready for introduction on the market, attended meetings in Kansas and Kansas City, and at Wichita, and have made trips into that territory since the introductory date. In fact, I was —

Q. Which was what date?

A. August 28.

Q. Of 1955?

A. Of 1955.

I was in Wichita just about two weeks ago at which time I held a meeting with all of the Kansas wholesalers to determine the sales progress of Busch Bavarian.

Q. What has been the initial reaction to the introduction of Busch Bavarian in Kansas?

A. I would say that we are very much encouraged.

Hearing Examiner Hier: Who made the decision to introduce these two beers?

The Witness: It was a management decision, after discussion —

Hearing Examiner Hier: You are the third man who has told me that top management made the decision. Who is top management?

The Witness: Well, in the final analysis, the President of the company, Mr. August A. Busch, would make the final decision. However, there were other people who would participate in a discussion about a new product of this kind.

(1977) Hearing Examiner Hier: Now, while I am on the point, who made the decision to cut the price of beer in St. Louis?

The Witness: That again was a management decision.

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Hearing Examiner Hier: Mr. Busch?

The Witness: In the end, by the President of the company, Mr. Busch. However, I might say this: that it was after discussion and I made the recommendation that we make the original cut.

Hearing Examiner Hier: Were you in on all these discussions with Mr. Busch when he made the decision?

The Witness: Yes, sir. I might say this: That you will recall I was Assistant Regional Sales Manager in charge of our branches. I then became the Regional Manager in charge of the branches. The City Sales Department is considered in with a group of branches.

When I left that position in September of 1952, I became Sales Manager of the Midwest Region. We had a reorganization, policy of decentralization, so that the branches were put into the territory of the Regional Sales Manager, and we set up the country in eight regions.

I was Regional Manager of the Midwest Region. The states in that Region were Missouri, Kansas, Iowa, Nebraska, North and South Dakota and Minnesota. St. Louis was continued to be under my jurisdiction.

I think that I have done everything — after all, (978) Missouri is the biggest state, sales-wise, in the seven that I had; a substantial part of the sales volume in the State of Missouri came from St. Louis, so I would naturally spend a lot of time and effort with that.

I think I have done everything from let's say a sales management standpoint that I could during the years, in which that was one of my responsibilities to increase sales in St. Louis, and I had inaugurated the split in sales force, so that we had an off-premise division and an on-premise division.

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I had started the peddle system which finally got into full operation in early 1954. When the subject of St. Louis was discussed, Mr. Busch offered me and offered to increase the sales staff in St. Louis, double it, and it was my opinion that increased sales manpower would not produce any results. I didn't think that a greatly expanded advertising program would be productive of sales results, commensurate with the cost unless we had a lower price, and it was my recommendation to Mr. Busch that if we wanted additional sales volume from St. Louis, that we would have to reduce the price.

Now, my recommendation was acted upon by him and the other members of top management.

Hearing Examiner Hier: You did not feel that the introduction of a "fighting brand" or this Busch Lager, for instance, in St. Louis, would produce the results that you (979) wanted?

The Witness: Not immediately; no, sir. It takes time. First of all, we were, in effect, buying time by a price reduction. It takes time to develop new packages, new products. Much study has to be done, and the cost of the introduction of some of these specific ways of meeting that price competition are quite expensive. They are expensive advertising-wise.

By Mr. Barton:

Q. As a matter of fact, Mr. Hallquist, do you have the advertising expenditures that have been devoted to the ten-ounce can in 1955?

John Hallquist, Jr., for Respondent—Direct

A. Yes, sir. Between the — you are talking about the ten-ounce can or the introduction of — I have it summed up here as a total.

Q. Let us take the new packages, that is, the ten-ounce can —

A. The fifth.

Q. The fifth. What has been the advertising devoted to that?

A. In 1955 \$517,500.

Q. And that is in a number of, something less, something considerably less, than the total United States, it is in these various areas that are listed on RX-173, I believe?

A. That is correct, sir.

Q. What has been — what was the amount of advertising money (980) devoted to pushing Busch Lager in St. Louis in 1955?

A. In St. Louis alone \$246,400.

Q. And that was in 1955?

A. And in the balance of the area in which we are selling Busch Lager, \$183,700.

Busch Bavarian, and we have put a greatly accelerated advertising campaign in back of that in Kansas \$310,000 for Kansas City, Missouri, and the State of Kansas. Actually —

Examiner Hier: How much — pardon me, go ahead.

The Witness: Yes, sir.

Actually, we have had a total in 1955 of \$1,283,000.

Hearing Examiner Hier: How much did it cost you to advertise this price reduction?

The Witness: In St. Louis? During 1954? \$157,900.

Hearing Examiner Hier: Go ahead.

John Hallquist, Jr., for Respondent—Direct

By Mr. Barton:

Q. Mr. Hallquist, when the decision was made to reduce the price 25 cents in January, what was the background against which that decision, that recommendation of yours, was made?

A. Well, I had — I don't quite follow you.

Q. What were the circumstances under which it was made?

A. Well, actually, I testified previously that our sales had dropped very substantially throughout the country in November and December of 1953, and we were seeking additional sales volume for the company.

(981) We also, as I testified before, were seeking information. We were in the nature of experimenting, trying to find solutions to our long-range problems. You might say that we were also in a measure buying time in order that we could explore more fully other avenues which would let us meet the competition of fast-growing regional brands, such as Falstaff.

Hearing Examiner Hier: Tell me this. On that point, was another reason for dropping the price in St. Louis and St. Louis County, in addition to those that you have enumerated, including buying time, to achieve a certain increase in volume, whereby the expensive process of putting two new products and then only one was contemplated on the market, could be financed?

The Witness: I can't tie those together.

Mr. Barton: Your Honor, I don't think there has been any testimony —

Hearing Examiner Hier: Certainly, there has not been any testimony; that is why I am asking the question.

John Hallquist, Jr., for Respondent—Direct

Mr. Barton: No, that these products the two new products were—that a decision had been made.

Hearing Examiner Hier: No the decision had not been made but they were being studied, the process of putting out—all right, we will go back to the ten ounce, fifth, and this, that and the other thing, new containers. He has testified that was a new process, too.

(982) Mr. Barton: That obviously was one of the considerations.

Hearing Examiner Hier: I am wondering whether one of the considerations in lowering the price was to obtain a boost in volume and, consequently, a partial, boost in profit whereby to finance these merchandising experiments, money for which you had under consideration at the time.

The Witness: I wouldn't say in that manner, Mr. Hier. I would say that as we went along into 1954, the drop in sales that we were having everywhere became more precipitous and, frankly, we did want additional volume but I don't think we considered it from the standpoint that we were specifically trying to get some additional revenue to finance these packages; I don't think we thought of it in that way and, frankly, I would say that I can't answer the question.

Hearing Examiner Hier: Well, of course, I think it is generally conceded that your employer is a very well-financed concern. I was not meaning to imply that they were going broke but, nevertheless, you detailed here this expensive process of trying to get into the off-premise market to a great extent.

The Witness: That is correct.

John Hallquist, Jr., for Respondent—Direct

Hearing Examiner Hier: And I was wondering whether that was not, perhaps, a consideration for top management, perhaps instigated by the Comptroller or the financial end of (983) it, but you say you can't answer so that is that. Go on.

By Mr. Barton:

Q. Now, isn't it a fact, Mr. Hallquist that the price reduction created a bigger base for Budweiser and for Budweiser products in St. Louis?

A. There is no doubt about that.

Q. In other words, one of the effects of the price reduction was that you got into the off-premise market in a way that you had not gotten in before?

A. In a very big way, sir.

Q. And the fact of getting into the off-premise market was an assistance in getting new products accepted in St. Louis, or at least it was so thought?

A. That is very correct.

Hearing Examiner Hier: Now, how quick did that result or effect show up? It didn't show at all until the June reduction, right?

The Witness: That is correct.

Hearing Examiner Hier: How many months after that did that effect show up? I know the statistics are in the record, but I want your evaluation of it.

The Witness: Immediately.

Hearing Examiner Hier: Immediately?

The Witness: Because one of the things I was interested in, and I tabulated it for my own information like (984) you do on a scrap of paper, I was amazed because the first month that I could add the figures together I

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think that we went to about, I think it was, 68 per cent in the off-premise market.

Mr. Barton: That is the distribution between sales.
Hearing Examiner Hier: I understand.

The Witness: 68 per cent, and 32 per cent; whereas before it was in the neighborhood of 62-63 per cent on on-sales and the balance on off-sales.

That happened immediately. You could tell it within one week, actually. You didn't know percentages but you knew it had happened because the deliveries of beer, where we had delivered, perhaps, 10, 15 or 20 cases, to a Super Market, they took a trailer load. I was amazed.

Hearing Examiner Hier: That leads me to the 64,000 dollar question, then. Why did you continue it for seven months, if you got results immediately? That is what you were seeking?

The Witness: Well, first of all I don't think that anyone would say that the results of a week—I mean I was amazed at what happened, but let's consider what the other things were.

Hearing Examiner Hier: Yes.

The Witness: There was a filling-up of the pipe line. Retailers who for many, many years, had been buying, (985) say, 25 cases of Budweiser a month, suddenly found their business to the point where they were using 150. That could upset any results that you were, or conclusions that you were going to draw.

There are many consumers who, prior to the time that they were buying Budweiser, had never had it before, so when you put a case of beer in their home, that meant also that you were also sort of filling up a pipeline, so, perhaps, your initial figures were distorted.

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Then, I think there is this thing to consider, that there was a natural curiosity as to whether many of these people were just taste-testing Budweiser who wanted to know whether they liked Budweiser who had never taken the opportunity or tried Budweiser before. In fact, we plugged very hard at the "here is an opportunity to taste Budweiser, sample Budweiser, at prices that are comparable to locally produced beers." Now, how many of those are going to stay with you, you don't know immediately. You have got to go on for awhile and let this thing settle down and shake itself down.

By Mr. Barton:

Q. How long then was the actual, was your product being sold at the same price in St. Louis as Falstaff?

A. From June 21, 1954 until March 1, 1955.

Hearing Examiner Hier: Did the sales price reduction (986) have any effect on your draft beer sales in St. Louis and St. Louis County?

The Witness: No, sir.

Hearing Examiner Hier: It had no effect?

The Witness: No, sir.

Hearing Examiner Hier: All right.

The Witness: All draft beers are sold at the same price over the bar.

Hearing Examiner Hier: I mean in consumption?

The Witness: No. The consumption stayed about the same.

Hearing Examiner Hier: All right, go ahead.

(Documents were marked Respondent's Exhibits 174-A and 174-B for identification.)

John Hallquist, Jr., for Respondent—Direct

By Mr. Barton:

Q. I show you RX-174-A and 174-B and ask you what it is?

A. I have it here. This is a photostat of a postal card notice.

Q. By whom?

A. By Cavanagh-Booth Sales Company. That is the Pabst Blue Ribbon Wholesaler in the city of St. Louis and it is to announce a price reduction on Pabst Blue Ribbon beer and ale. It announces that their beer will be sold at the same price as popular-priced local beers and it was effective immediately and the post card is dated June 24, 1954.

(1987) Mr. Barton: I offer 174-A and B in evidence, your Honor.

Hearing Examiner Hier: Doesn't the record already reveal this?

Mr. Barton: This is not in the record.

Hearing Examiner Hier: I know, but I mean the immediate price drop of Pabst is in the record?

Mr. Barton: It is in, through testimony, yes. There is no document in evidence on this because in the St. Louis hearings we didn't — there wasn't anybody there on the stand.

Hearing Examiner Hier: You have the same objection to this?

Mr. Barton: I will withdraw it if you concede that is the fact, Mr. Mayer.

Mr. Mayer: What is that, sir?

Mr. Barton: That Pabst reduced its price in St. Louis on or about June 24, 1954 to that of Falstaff and Budweiser.

John Hallquist, Jr., for Respondent—Direct

Mr. Mayer: I concede that.

Mr. Barton: I will withdraw the Exhibit.

Would you concede also, Mr. Mayer, that Pabst went up in price on March 12, announced March 12, 1955, effective—it was effective immediately, I guess.

Mr. Mayer: I have no knowledge about that, Mr. Barton.

(988) Mr. Barton: Do you want me to put it in?

Mr. Mayer: Talk to the witness about it.

(The document referred to was marked Respondent's Exhibit 175 for identification.)

By Mr. Barton:

Q. I show you RX-175 and ask you what it is, Mr. Hallquist?

A. This is a bulletin announcement by the Cavanagh-Booth Sales Company, who are the Pabst Blue Ribbon Wholesalers in St. Louis, dated March 12, 1955, addressed to their customers, the licensed retail outlets in St. Louis and St. Louis County and announcing that the prices for their Pabst Blue Ribbon Beer in various containers and packages would be increased effective March 28, 1955.

Mr. Barton: Is there a concession, Mr. Mayer, or shall we offer it?

Mr. Mayer: You may offer it.

Mr. Barton: I offer it.

Hearing Examiner Hier: All right.

Mr. Barton: I offer it.

Hearing Examiner Hier: Do you object?

Mr. Mayer: Yes.

Hearing Examiner Hier: Why?

John Hallquist, Jr., for Respondent—Direct

Mr. Mayer: I don't see any relevancy to the Pabst —action taken by the Pabst Blue Ribbon Company, subsequent to the elimination of the price discrimination by Budweiser.

(989) Hearing Examiner Hier: Well, it seems to me it is the other half of the coin, the stipulation which replaced 174-A and B; in other words, Pabst doing the same thing Budweiser is doing in —

Mr. Mayer: That was offered in Exhibit form. That had already gone in over my objection in Exhibit form.

Hearing Examiner Hier: I am going to let it in. 173 is admitted in the record.

(The document referred to, heretofore marked for identification as Respondent's Exhibit 175 for identification, was received in evidence.)

By Mr. Barton:

Q. Mr. Hallquist, what was the effect as to the price of Schlitz in St. Louis? Let us take, first, what happened in January of 1954 with respect to Schlitz prices.

A. In January 1954, shortly after the Budweiser prices were reduced, Schlitz prices were reduced by the same amount as Budweiser.

Q. What happened with respect to the June price reduction insofar as Schlitz was concerned?

A. Nothing. Schlitz remained at the same price that they had established in January of 1954.

Hearing Examiner Hier: Off the record.

(Discussion off the record.)

Hearing Examiner Hier: On the record.

John Hallquist, Jr., for Respondent—Direct

(990) *By Mr. Barton:*

Q. Mr. Hallquist, what is the fact as to the prices at which Pabst and Schlitz are sold in Milwaukee in competition with Gettleman, who is the local brewer in Milwaukee, and does business not on a national basis but on a semi-regional basis?

Mr. Mayer: I object to that. What relevancy is the Pabst and Schlitz price to a local in Milwaukee, Wisconsin, as related to Budweiser's defense?

Hearing Examiner Hier: I do not see that it has any. Apparently, that was stimulated by my off-record.

And the very fact that I put it off the record was that it had no relevancy. It was a matter of information.

Mr. Barton: Do you want to know that off the record?

Hearing Examiner Hier: I will sustain the objection.

(The document referred to was marked Respondent's Exhibit 176 for identification.)

By Mr. Barton:

Q. I show you RX-176, and ask you what that is?

A. This an announcement by the Griesedieck Brewing Company in St. Louis, Missouri, announcing a GB holiday bonus special, in other words, a cut in their price below the local beer prices in St. Louis in various amounts for various quantities. Actually, the reduction is 20 cents per case in 50-case lots (991) for returnable bottles.

Hearing Examiner Hier: What date is this?

The Witness: This was in November and in December of 1954.

Mr. Barton: I offer RX-176 in evidence.

John Hallquist, Jr., for Respondent—Direct

Hearing Examiner Hier: I assume you object?

Mr. Mayer: Yes, sir.

Hearing Examiner Hier: Well, they have got a defense in here of meeting competition in St. Louis and St. Louis County. This is one of the competitors.

Mr. Mayer: May I inquire of Mr. Hallquist on this Exhibit?

Hearing Examiner Hier: Certainly.

Mr. Mayer: Where did you receive it, Mr. Hallquist?

The Witness: I picked it up from retailers in the trade because it had been mailed to all retailers in the City of St. Louis and St. Louis County.

Mr. Mayer: How do you know it had been mailed to all retailers? Did you contact all retailers?

The Witness: Not everyone but I had enough reports from salesmen that —

Mr. Mayer: That is your conclusion that it was?

The Witness: That is correct, yes, sir.

Mr. Mayer: We have the usual objection to this Exhibit, sir.

(992) Hearing Examiner Hier: Pardon me?

Mr. Mayer: We have the usual objection to this Exhibit, sir.

Hearing Examiner Hier: Pardon me?

Mr. Mayer: We have our usual objection to this particular Exhibit.

Hearing Examiner Hier: I think this is competent on another point and, that is, their defense of meeting competition, two (b). Whether it makes out the defense or not is another question, but I think it is admissible for that purpose.

176 is admitted to the record.

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(The document which was previously marked Respondent's Exhibit 176 was received in evidence.)

(Document referred to was marked Respondent's Exhibit 177-A and 177-B for identification.)

By Mr. Barton:

Q. I show you Exhibit 177-A and 177-B and ask you what it is, Mr. Hallquist?

A. This is a letter and price schedule attached mailed to licensed retailers in St. Louis and St. Louis County by the Griesedieck Brothers Brewing Company, dated February 23, 1955, and announces a price increase which is to become effect Monday, March 7.

Q. How does the price increase, the date of it, that is, the (993) date of it, compare with that made by Anheuser Busch on Budweiser?

A. Well, Anheuser Busch announced their price increase on February 16 and was effective on March 1.

This announcement is dated February 23 and is effective March 7.

Mr. Barton: I offer 177A and B in evidence, your Honor.

Mr. Mayer: We do have the same objection to this because this is outside of the reduction of a price engaged in by Anheuser Busch. This is not relevant or material to any defense.

Hearing Examiner Hier: Technically, of course, you are correct, Mr. Mayer, but you have put into this record figures or testimony or both showing that after the price went up again the three particular competitors involved regained a good part of the business lost. I think the

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fact that one of them went up also tends to highly that regaining. I really think you would be doing yourself a disservice to keep this out of the record, both of you would.

Mr. Barton: It completes the facts. There will be certain arguments made on the facts and this would be —

Hearing Examiner Hier: 177-A and B is admitted into the record over objection which has been overruled.

(994) (The document which was heretofore marked Respondent's Exhibit 177-A and B for identification was received in evidence.)

(Document referred to was marked Respondent's Exhibit 178 for identification.)

By Mr. Barton:

Q. I shew you RX-178 and ask you what it is, Mr. Hallquist.

A. This is a compilation of Griesedieck Brothers beer sales reported by Anheuser Busch wholesalers who handled Griesedieck Brothers in their particular markets in 1954 and 1953.

Q. Yes. Now how were these figures which appear on 178 obtained?

A. They were obtained directly from the wholesaler who handles both Anheuser Busch products and Griesedieck products from the same particular warehouse.

Mr. Barton: Your Honor, I offer in evidence RX-178, and the basis for the offer, your Honor, is that it goes to the injury question. This is in further substantiation of our position that GB lost outside of St. Louis comparably to what it lost inside St. Louis during the period of the price reduction.

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Hearing Examiner Hier: That is what your claim is, that they lost as much outside St. Louis as inside?

Mr. Barton: That is the fact.

Hearing Examiner Hier: This, of course, is a very (995) skimpy picture. I mean, it sells over, I believe, a nine-state area, does it not; nine, ten, eleven states? I can't do much with two states here.

Mr. Barton: Your Honor, these are the only wholesalers who are joint Anheuser-Busch and Griesedieck Brothers wholesalers. Now, there are facts in the record with respect to the drop of Griesedieck Brothers in St. Louis, outside St. Louis; in other words, we have the complete picture in the record on just the total figures. Now, we put on retailers on the stand on Monday to testify to one aspect of the point. This is in further elucidation of the point. I agree with you it is not complete, but it is as complete as we can get it.

Hearing Examiner Hier: I mean the trend shown by these figures is already in the record.

Mr. Barton: That is true, your Honor.

Hearing Examiner Hier: Because you have overall losses. I don't see that this adds anything.

Mr. Barton: I will withdraw it, your Honor.

Hearing Examiner Hier: Very well; 178 is withdrawn.

(The document heretofore marked Respondent's Exhibit 178 for identification was withdrawn.)

(Exhibit No. 52 was marked for identification.)

By Mr. Barton:

Q. I show you BX-52 and ask you what it is?

John Hallquist, Jr., for Respondent—Direct

(996) A. This is a book containing samples of Griesedieck Brothers Brewing Company advertising from April 1, 1951 to April 1955.

Mr. Barton: Your Honor, I have the only copy here. You have a copy of it, don't you?

(Off the record discussion.)

Hearing Examiner Hier: Have you gentlemen examined this book in the last three or four days?

Mr. Mayer: I have looked at this one, among others.

Mr. Barton: I offer 52 in evidence your Honor.

Hearing Examiner Hier: Let's see what is the purpose of this offer?

Mr. Barton: Your Honor the purpose of this offer is to tie into all the testimony we had on Monday. In other words, it shows the changes in advertising program, it shows the particular advertising that the retailers were testifying about. It shows the change in the product which GB put out in March 1954 and the advertising program that was adopted with respect to that product and it seems to us that in order to have the record complete as a demonstration of all of the reasons, that went into what was an overall reduction of Griesedieck Brothers, we must have this as a basis for our full argument.

Hearing Examiner Hier: I do not follow you.

All right if Griesedieck advertises a lot or a (997) little or they advertise broadly or it changes its products or this, that or the other thing, I don't see that that makes a bit of difference in this case, since you have actual sales figures which are the ultimate test of consumer acceptance, marketability, merchandising success and so on.

Advertising is merely one facet of merchandising.

John Hallquist, Jr., for Respondent—Direct

Mr. Barton: It is one facet, your Honor, but our argument is obviously going to be, as your Honor can appreciate, that Griesedieck Brothers in this case—that there has been shown no injury by the Commission with respect to Griesedieck Brothers.

Hearing Examiner Hier: Yes.

Mr. Barton: Because the facts in the record, based, partially upon the advertising, indicate that in 1954 Griesedieck Brothers came out with what they proclaimed as a new product. There is an Exhibit in the record which indicates that they withheld their old product in order to get the wholesalers to get completely stocked up with a new product. They heralded it with a number of full-page advertisements, a progressive series of advertisements, proceeding from March 1954 into August and September 1954. It was the new beer brewed the Old World way. Then they got into this Krausening advertisement later in the advertising campaign.

Now, the fact is that, or we will so argue that, unfortunately, the new product had some problems in customer (998) acceptance. The fact that it did is demonstrated by the fact that retailers in widely assorted areas outside of St. Louis, where there is no price reduction on Budweiser or any other product in competition with Griesedieck Brothers, reported that customers switched away from Griesedieck Brothers for the reasons that they stated. Now, the advertising ties in to tell the rest of that story, your Honor.

(999) Hearing Examiner Hier: I don't see that it does. Griesedieck advertised nationally.

Mr. Barton: No.

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Hearing Examiner Hier: They put out new products—that is in the record. The results of all of those are in this record in sales figures. It does make a bit of difference whether Griesedieck's advertising was smart, stupid or how much money they spent on it, or anything else. The ultimate results of this advertising are reflected by this exhibit, are in this record now.

I don't think this is a competent exhibit. I wouldn't say it isn't competent, but I don't think that it is material in view of the state of the record.

Mr. Barton: All right.

Hearing Examiner Hier: Respondent's Exhibit 52 is rejected, Mr. Reporter.

By Mr. Barton:

Q. Mr. Hallquist, it has been alleged that Anheuser-Busch demonstrated striking economic power by advancing from approximately 12 percent of the packaged beer market in St. Louis to 40 percent of the packaged beer market as the result of the price reduction.

I ask you, assuming that fact, that allegation to be true, which of course we deny, what assurance is there that this alleged exercise of power would not occur in another (1000) part of the country at some other time?

Mr. Mayer: I think he can ask specific questions which would lead to that conclusion rather than to put the word "assurance" in the witness' mouth. He is an expert on sales.

Hearing Examiner Hier: Read the question back.

Mr. Barton: What facts are there to indicate that it would not, that the same result would not, the same thing would not be done, the same result would not occur.

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Hearing Examiner Hier: You may answer that. What facts, what economic facts, what commercial facts.

The Witness: I think, first, that the experience of Pabst in the St. Louis market — were we to go outside of the St. Louis market, we would be operating under, I would think and believe, fairly comparable conditions in which Pabst operated in St. Louis when they met the price of Budweiser and local and regional beers.

I don't think there is any reason to believe that our sales success would be any greater elsewhere than Pabst had in St. Louis. I think the good faith of Anheuser-Busch is shown by the fact, and I think that the need for any such elsewhere is pretty well eliminated or reduced by the fact that we are now marketing new packages of smaller size containers which will permit us to get into the locally priced market, that we have brought out not one but two different brands of popular (1001) priced beer, which will make it possible for us to go into the popular priced field and to get into the home market.

It certainly would not seem good business tactics to compete with Budweiser, to compete — our 12 ounce package with the 12 ounce package of a new product that we are putting out. We would be in effect competing with ourselves.

Hearing Examiner Hier: You have given me a number of subjective suggestions as of today. As you view the situation —

The Witness: Yes.

Hearing Examiner Hier: —as to why you probably would not engage in the same type of tactics, merchandising tactics elsewhere, is there anything in the Budweiser, in the Anheuser-Busch commercial merchandising

John Hallquist, Jr., for Respondent—Cross

or productive organization which would prevent your doing so?

The Witness: Yes, sir. I would say that one of the things that we certainly—that we will always do, and that is maintain the quality of Budweiser. We don't think if we were to extend an experiment such as we conducted in St. Louis, if we said that was going to be the pattern for us elsewhere, we would have to change the quality of our product, and frankly that is why we have gone into the smaller package, so that we could perhaps give the consumer two ounces less of beer and the consumer wouldn't have to pay more than the popular price that they were always accustomed to paying.

(1002) Of course, the other answer to cutting the quality is that we brought out the two other products to get into that price field.

Hearing Examiner Hier: All right.

Mr. Barton: That is all, Your Honor.

Hearing Examiner Hier: Do you wish to have a recess before you cross-examine?

Mr. Mayer: Yes, sir, I would like to have it run a little bit longer than the ordinary recess because I have extensive notes that I would like to go over.

Hearing Examiner Hier: All right. We will make a 15 minutes.

(A recess was taken.)

Hearing Examiner Hier: On the record.

Cross Examination by Mr. Mayer:

Q. Mr. Hallquist, directing your attention, sir, in particular to Respondent's Exhibit 153, sir, to page 2 of that exhibit, would you give us the name, please, sir, of the shipping breweries indicated in the first paragraph?

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A. Budweiser, Schlitz, Pabst, Millers and Blatz.

Q. Now, sir, throughout this particular exhibit there are many times used the word "national" and "local" and "regional", with regard to the various beers.

First of all, would you define for me what a "national" (1003) beer is, in the terms of this exhibit?

A. I would consider them to be the five shipping breweries which I just enumerated.

Q. Now, sir, what would be your definition of "regional" beer?

A. Well, I testified as to that in St. Louis and indicated that there is no standard set up for determining a regional beer as compared to a local beer. I think that everyone of our wholesalers, as evidenced by Mr. Shinn's testimony yesterday, have their own definition as to what is local beer and what is regional beer in their particular market.

So I don't think that I could give you a definition that was hard and fast.

Hearing Examiner Hier: Do you know any local brewery that ships more than a radius of say, 300 miles? There may be one or two but I mean in most part. Would you call them a local beer? That is my point.

Frankly, when I think of local beers, I think—there are a great many small breweries in Minnesota and in Wisconsin, that sell in their own particular community. That brewery in most instances performs all of the sales and distribution functions himself.

Then we have what I personally would term regional beers, are beers, companies of substantial volume, over more than five States, something like that.

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(1004) The Witness: I think some of them, if they ship into two States, could be considered a regional beer. I think much would depend — in the definition — much would depend on the size of the brewery, the volume that it has.

Re Mr. Mayer:

Q. On the tabulation of the information with regard to this particular exhibit, was the character sales of local or regional made by the person reporting to you, sir, or did you determine what was to be classified as "local" or "regional"?

A. As I recall it, it was determined by the man who made the particular report.

Q. Now, sir, after the price increases by the shipping breweries in October of 1953, did some of the local or regional brands raise their prices?

A. Yes, sir. I previously testified to that, too. I don't know whether I could enumerate the areas in which they went up. I certainly could not tell you the individual breweries that went up, and those that did not go up.

Q. But in this Exhibit 153, there are comparisons made between the price of Budweiser and the price of some locals who did go up and some locals who did not go up, are there not?

A. That is correct.

Q. And that would be true with relation to regionals, too, would it not, sir?

(1005) A. That is correct.

Q. We have no way of knowing in any area indicated in this exhibit whether or not the particular re-

John Hallquist, Jr., for Respondent—Cross

gional or local involved did increase its price after the shipping breweries increased their prices in 1953, have we?

A. Yes, I think that the exhibit requests the selling prices prior to October 1953 to the retailer, and also asks for the selling prices as of April 1, 1954, and the difference between those two.

If there was a difference, it would indicate that the brewer had gone up. If there was no difference, it would then be assumed that the local or regional beer did not go up.

Q. But we have to assume, then, I take it, from either greater variance in the differential or the lack of differential in the price to the consumer as it appears in the exhibit; is that correct?

A. In this particular exhibit that particular phase is not tabulated but it is on the original survey forms.

Hearing Examiner Hier: Do these three regional beers in St. Louis go up?

The Witness: No, sir, they did not.

Hearing Examiner Hier: They did not?

The Witness: No.

By Mr. Mayer:

(1006) Q. With relation to the various markets contained in the exhibit, for example, Washington, D. C., that is on Page 12—does this particular tabulation reflect all of the outlets, offering Budweiser for sale, which you consider to be in the Washington, D. C. market?

A. Yes, sir.

Q. It does?

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A. Yes.

Q. That would be true, I take it then, with any particular market which appears on the exhibit?

A. That is true. However, for example, it does not mean the city which is listed. It means the branch or wholesaler territory which is covered out of that particular point.

Q. But on the tabulation, on Page 12, for instance, it reflects, as it states, number of on sales outlets, various price differentials to the consumer—it reflects all of the outlets in Washington, D. C. served by the branch in Washington, D. C.—

A. Yes.

Q. —which offer Budweiser.

A. That is correct.

Hearing Examiner Hier: Mr. Hallquist, still looking at Page 12, under the second category, to find the number of outlets, am I correct in assuming that you add 750 plus 43, to find them?

(1007) The Witness: That is correct.

Hearing Examiner Hier: That would give the total?

The Witness: Yes, sir.

By Mr. Mayer:

Q. Does the exhibit show then on May 1st there was a decrease in the number of outlets offering Budweiser for sale in Washington?

A. This exhibit isn't intended to do that. It may. I don't know.

The question that was tabulated is not reflected here. If by adding the two together there is a lesser amount that would indicate that, yes, sir.

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Q. Now, sir, on page 3, would you tell us, sir, what you meant by you had sensed sometime ago impending decrease in premium brand sales, and to what time period, "time ago" does it relate?

A. That is stating it rather mildly, Mr. Mayer. We felt the decrease in sales beginning in November of 1953.

Q. In other words, it was not impending decrease; you had actually felt a decrease?

A. That is right.

Q. Was that immediately following your raise in price?

A. That was before that.

Q. Before that?

A. Yes, sir.

(1008) Hearing Examiner Hier: Did the increase in price due to the strike in the fall of 1953, accelerate the decrease in premium brand sales?

The Witness: Very greatly, sir, and ours in particular.

Hearing Examiner Hier: Did it accelerate a decrease in off premise sales?

The Witness: I think it did. That is my best judgment.

Hearing Examiner Hier: Go ahead, Mr. Mayer.

By Mr. Mayer:

The Witness: Did you say off premise or on?

Hearing Examiner Hier: Off premise.

The Witness: I would say that the on premise sales decreased.

Hearing Examiner Hier: But not the off premise?

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The Witness: For Anheuser Busch or for the industry, sir?

Hearing Examiner Hier: Well, for both.

The Witness: For Anheuser-Busch in both on and off premise sales and for the industry, I would say the on premise phase of the business had been dropping for a long time. I think it was somewhat accelerated by the price increases of October 1953. By the same token, I think that off premise sales accelerated for the industry.

(1009) Hearing Examiner Hier: Accelerated?

The Witness: Yes, sir.

Mr. Barton: You mean the decrease was accelerated.

The Witness: For the industry I think the off premise sales tended to increase after the price went up.

By Mr. Mayer:

Q. Now, sir, directing your attention to Page 4 in the miscellaneous column of number of mentions under wholesaler recommendations, and incidentally, do you have separate indications of wholesaler recommendations, or were they on the regular reporting form? Is that where you got those recommendations?

A. They are on the reporting form.

Q. How many, Mr. Hallquist, recommended a new product under "miscellaneous"?

A. I would not tell you off-hand, sir. I would have to tabulate the answers there.

Q. I take it you did not feel there were enough to mention them in the report?

A. We picked out the two major mentions by our wholesalers, and these were—well, three actually, con-

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sumer advertising, adjustment in price, and more P.O.S. But there were other reasons that were indicated.

Q. Frankly, weren't you a little surprised that so many of your wholesalers and field men recommended more consumer (1010) advertising and more point of sale advertising, when it came to the recommendations?

A. No, sir, I wouldn't be —

Q. In that exhibit?

A. I don't think there is a salesman in America who does not want more of everything or every tool that will help him, and it is just typical of salesmen.

Q. You can discount his recommendations with regard to advertising?

A. You can, yes, sir. And they want it in their particular market.

Q. How about their recommendations with regard to price?

A. Price?

I don't think they reflected it in here, as much of a feeling for adjustment in price as they would ordinarily do. And I think that I indicated, one of the reasons, of course, that I indicated that the company had considered it and discussed it, we didn't think that any reduction or roll back of our price to the pre-October price would be productive of results for us because our strength has always laid in the on premise outlets and we didn't think that we could get enough retailers to reduce their prices by simply rolling back our increase, and our field men have the same experience that our people in management have and I have.

And I am sure that one of the reasons they didn't (1011) recommend more of them, didn't recommend ad-

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justment in price, they didn't think it would be of any help in the situation at that date.

Q. Do you think it was because they didn't think it was of any help or because they knew that the management was opposed to that?


A. I don't think they would know what management, how management felt at that time. We asked them for their frank opinion, their recommendations and suggestions.

Q. The reason I was asking the question with regard to advertising and price was that to my knowledge there is only one report of one wholesaler, I may be wrong. There might be a field man, which stated that he was losing sales because he thought he was not getting enough advertising.

In opposition to that, or contrasted to that, almost everyone without a single exception notes that he is having troubles in cases of decreases because of his price; yet when they come to make recommendations —

Mr. Barton: What are you referring to there, Mr. Mayer?

Mr. Mayer: I am referring to Exhibit 153. In the exhibit there are field men's reasons given for the various sales declines in his area. Only one man mentioned advertising. Every other single one mentioned price. That was the reason I thought it was a little strange that when the (1012) recommendations came in as to what to do about it, few recommended price while many recommended more advertising.

The Witness: That is correct. 

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Re Mr. Mayer:

Q. I thought that might be because they knew that recommendations with regard to price might be futile because of the top management's regard as to what should be done in price situations.

A. I think the fieldman, in his analysis of the situation, would say that we needed more advertising to overcome the price barrier.

Q. But only one even lists or hints that that is the reason for his sales decline.

A. You would have to go to the original sheet, Mr. Mayer, to get the full facts.

Q. I qualified that, sir, by saying as it appears in the Exhibit 153.

A. That is right.

Hearing Examiner Hier: Where did this idea of competitive new brand originate, from the dealers in St. Louis?

The Witness: I would say that it originated largely through our wholesalers. Before the war Anheuser-Busch marketed a second brand of packaged beer, called Faust. We sold that in, as I recall, St. Louis, Missouri, Illinois, (1913) throughout the entire State of Texas, and I don't know what other areas were involved.

With the advent of the war and restrictions on grain, we discontinued the manufacture and sale of Faust. And our wholesalers had been most anxious for us to bring out Faust, or in effect, they were saying a popular priced beer, for a number of years.

That has been accelerated, as soon as they ran into substantial sales difficulties themselves. And I think it was just one of these things that sort of gathers momen-

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tum. It came from wholesalers. It came from some of our own people. And I mean it finally was brought into being.

Hearing Examiner Hier: Was this Faust experiment a success financially?

The Witness: Yes, we did a very nice business in St. Louis with Faust.

By Mr. Mayer:

Q. Now, sir, also during the period in which the wholesaler and the fieldmen were recommending more consumer advertising, as I remember your testimony, that was also the period in which Anheuser had its largest advertising budget in history. Is that correct?

A. That is correct, sir.

I might say there is no end to the requests of our fieldmen for advertising support.

(1014) Q. Directing your attention, if you will, sir to page 6 of the exhibit—first of all, sir, at the top, the heading, opposite the word "Region", 25 cents for instance, it lists 10-1 and 5-1. Is that 10-1, 1953 and 5-1, 1954?

A. That is correct, sir.

Q. Why was May 1, 1954 selected, Mr. Hallquist?

A. Well, the survey form was mailed on a late date in April of 1954. We picked 5-1 so that we would have a common date throughout the country insofar as the information contained in the tabulation or the survey was concerned.

In other words, we wanted a certain specific date, so that it would reflect conditions as of that date, rather

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than have some of them report a figure that was a March or April figures.

Q. In all instances on page 6 of Exhibit 153, in the comparison of national versus local and national versus regional, the make-up of the brands of beer to be included under the word "national" was the same, was it, sir, that is in the heading?

A. Page 6?

Q. Page 6.

A. My page may be — yes.

Q. In other words, what were the nationals' gain when you compared national versus local?

A. Those, well, Budweiser, Schlitz, Pabst, Blatz and (1015) Millers.

Q. And they were the same when you used the national comparison versus region?

A. That is correct, sir.

Q. Now, sir, does this exhibit show or is it intended to show that the maximum resale price of Budweiser in Region No. 1 was 40 cents on those dates?

A. No, sir.

Q. Why does it appear for Region 1 and for no other region?

A. Because the survey form which we sent to the field requested information only in 25, 30 and 35 cent category. The field man or the people in Region 1 who conducted surveys added a 40 cent classification of their own simply to point out a condition in our market.

Q. Now, sir, then directing your attention to the price differentials, national versus local, is this exhibit intended to show that there were no outlets in Region 1 in October of 1953 or May of 1954 in which the differ-

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ential was more than 10 cents between the price of Budweiser and the various local beers to the consumer?

A. Please restate that.

Q. Just read it back.

(Question read by reporter.)

A. No. We didn't try to tabulate, if there was a difference (1016) in excess of ten cents. I think such outlets would have been in a minority and actually would not be relevant to our over-all problem. It is only a small portion of the market which might have a differential in excess of ten cents.

Q. In other words, by numerically adding the figures as they appear on page 6 of Respondent's Exhibit 153, in showing the differential, I am unable to tell how many outlets have differentials between Budweiser and the local beers in any region on this particular page.

Mr. Barton: I don't get that question.

Mr. Mayer: Just read it back to the witness.

(Question read by the reporter.)

Hearing Examiner Hier: I don't understand it.

Mr. Barton: The survey was not made of every wholesaler. It does not purport to be. It is only of 86 shipping points out of the total.

Hearing Examiner Hier: That isn't what he means.

Mr. Barton: I gathered that is what he meant.

Hearing Examiner Hier: Off the record.

(Discussion off the record.)

Hearing Examiner Hier: On the record.

The Witness: No, sir, it does not.

By Mr. Mayer:

Q. Now, sir, directing your attention in particular to the figures opposite "region 4" and specifically to the

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column under (1017) the general heading of "national versus local" there appears the figure 85, which as I interpret the exhibit means that on the 1st of October, in 1953, there were 85 outlets of the number of outlets surveyed by Budweiser that had no differential in price between Budweiser and the local brand.

A. That is correct.

Q. Would a tabulation of the information given to you by your wholesalers or field men tell us the name and the individual local brand in those 85 instances?

A. No, it would not.

Q. Would it be possible, for instance, that the wholesaler or in this case it is your branch operation, might report that Gunther is a local beer in Washington, D. C.?

A. It is possible.

Q. So it is possible that what appears in your local column might appear in your regional column on occasions?

A. That is correct.

Q. Now, sir, would those replies or those reports tell us in any sense what type of outlet was involved in reselling Budweiser and the local brand at the same price to the consumer?

A. Simply that it was an on sale outlet.

Q. But it would not tell us whether it was, well, for example, whether it was Metropolitan Club or Pauls Cafe?

A. No, sir.

(1018) Q. Now, sir, directing your attention to Page 8 of Respondent's Exhibit 153, again, as I understand it, in the comparison between the national and the locals, this was not designed to and does not tell us if there

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were any locations in which the differential was more than ten cents?

A. That is correct.

Q. Now, sir, is there any explanation for the fact that the figures appear to be the same in many instances on this exhibit in the non differential column of national versus local and national and regional, for instance, in the Albany area, figures in all four columns are identical? Do you know the name of the local beer purported to be sold there at the same price?

A. No, I don't.

Q. Do you know the name of the regional beer there purported to be sold at the same price?

A. No, sir, I do not.

Q. Does this exhibit indicate that in Albany, New York, that in 290 instances the local beer and the regional beers are being sold for the same price?

A. That is correct.

Q. And why is that?

A. Well, wait, now —

Q. I am sorry.

A. You said — you mean over the bar?

(1019) Q. Yes, sir.

A. Or to the retailer?

Q. No, to the consumer.

A. It indicates that the price to the consumer is the same, yes, sir.

Q. And do you have any explanation of that, sir?

A. No, sir, I don't.

Q. Did you make any attempt to find out?

A. You mean about a specific city?

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Q. Yes, sir.

A. As to why the retailer sold his local beer and regional beers at the same price as he sold his national brand.

Q. Yes, sir.

A. No, sir. I had been very happy to leave it alone.

Q. Again with this item by totaling it numerically, the differentials, I am unable to come to a figure which would actually represent the number of outlets in which there is a price differential to the consumer between Budweiser and the local beer.

Hearing Examiner-Hier: That was a question.

The Witness: Was it a question?

Hearing Examiner Hier: Yes. The answer is obviously yes. It is the same thing asked you on the other.

Any differential in addition to ten cents is not on this exhibit.

(1020) The Witness: Yes, sir. I mean frankly, I would say we were not interested because we are interested in the bulk of the market, the mass of the market. I don't think if there are differentials exceeding a dime that it would not be over two or three percent of the entire market.

By Mr. Mayer:

Q. I take it, though, two or three percent of a market could be important to you, could it not?

A. I am talking about the number of licensed outlets. And where you might expect such a differential, it might be in a nightclub or some other place where beer sales are, let's say, a minor part of our business.

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Q. Is it possible, Mr. Hallquist, directing your attention to Page 12, and more particularly to the information with regard to Baltimore, Maryland, in which on October 1st, — I am choosing this material because it is a small figure and you might be familiar with it — to tell us what particular types of outlets are involved in that figure, Number 10?

A. Simply on sale outlets.

Q. And the reports from your fieldmen or wholesalers would not indicate what particular types?

A. No, sir.

Q. And I take it from the information which you received and put into this tabulation that there are no regional beers being offered in Washington, D. C.?

(1021) A. There were none so indicated by the person preparing the survey form; in other words, he considered the beers that are being sold in Baltimore as being local brands.

Q. I may have asked this before, but in the reporting by your wholesalers or field men, did they identify the local brands by name or the regional brands by name?

A. In the section from which this information was tabulated, no, sir.

Q. They did not?

A. No.

Q. Now, sir, did you make any particular analysis of the number of accounts appearing on this complete exhibit with regard to the volume, the sales volume, of Budweiser as against the sales volume of the local beer?

A. No, sir.

Q. Would not that have told you how you were doing when the price was the same to the consumer in the normal average outlet?

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A. We have and I believe it is in the exhibit here, the amount of sales decrease that we were suffering in each one of these particular markets during the January and February period of 1954 compared to January and February of 1953.

Q. Yes, sir.

A. And there is a correlation between the pricing structure and the sales decrease.

(1022) Q. Isn't that based on your fieldmen's and wholesalers' statement that it was because of price?

A. No, sir, I think the facts show it.

Q. No, but also every one of their comments state that their sales are decreasing because of the price problems?

A. That is right.

Q. I wanted to know, did you make any analysis of the markets in which you have outlets selling Budweiser at the same price as a local beer, to determine what your volume was in that outlet as compared to the local beer volume?

A. Where we are selling at the same price?

Q. Yes, sir.

A. No, sir.

Q. Would that have given you any indication as to your volume that you could expect when the price was the same as the local beer?

A. No, sir. I don't think, I don't think that it would.

Q. In effect, what more did you do in St. Louis during the price period charged, when the price was the same as the local, what was the difference in that situation than the situation in Greensboro, North Carolina when you had 429 outlets selling Budweiser to the con-

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sumer at the same price as the local beer was being sold to the consumer?

A. I am trying to understand your question.

Mr. Mayer: Read it back.

(1023) The Witness: What specifically — what is your question?

Mr. Mayer: Would you read it back?

(Question read by reporter.)

Hearing Examiner Hier: His point — never mind reading it back — is that you had a test in Greensboro, North Carolina, a competitive test, selling your beer at the same price to the consumer as to the local and regional beers were being sold at, and why engaged in another test in St. Louis with the results that you depict in this record. I mean, that is your ultimate question. That is what he is driving at.

The Witness: Frankly, I don't know just how to answer that question, Mr. Hier. There are a lot of factors that would not let you take a market like Greensboro, North Carolina as a comparison with St. Louis.

For example, I don't think that all brands of beer sold at the same price in Greensboro, North Carolina, to the retailer, that there was a price differential there. That conditions, and I can speak more freely when we move up into the middle western part of the country, in parts of Iowa, in Kansas — there is one price over the bar. There may be a differential of as high as 75 cents between the price of one brand and another brand in selling price to the retailer, yet it is a common practice and policy among the retailers in (1024) an area to sell all beers for one price.

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That certainly would not give us a test of the condition that we were looking at in St. Louis. There is no indication that Greensboro, North Carolina, through the retail outlets sell for both on and off premise consumption at the same price. The bar market is an entirely different market.

In the areas that I talked about, in Iowa, you will find all beers selling for the same price over the bar despite the fact that there is a difference in cost from 75 cents to perhaps 80, or it might be 60 cents. Yet the take home packages sell, oh, let's say, percentage mark up basis above cost through grocery stores — your price would be in relation to the cost price whereas in the tavern it is not always true.

Hearing Examiner Hier: There is one other difference that occurs to me, that is the volume potential; of course, around Greensboro, North Carolina is far different from what it is in St. Louis.

The Witness: I think a great difference in the legal situation.

Hearing Examiner Hier: I wanted to ask you if the volume potential had anything to do with it.

The Witness: Seriously, we would have to have an area that had potential as compared to an isolated one. I (1025) certainly would not want to take the results of an experiment in a rural market of Iowa or Kansas or North Carolina in formulating any overall plans for the company.

By Mr. Mayer:

Q. Mr. Hallquist, I believe in answer to the Examiner's question, you stated that in certain areas it is customary to sell all beers at the same price to the consumer.

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A. Over the bar.

Q. Yes.

Would you tell us those areas?

A. I will do the best I can from my memory. But I think that you will find some of them in, definitely, Iowa. I am not talking about all outlets.

Q. Generally.

A. A substantial number of outlets, Chicago, Illinois. You will find it pretty well scattered as Mr. Shine read his survey reports yesterday. I think there were quite a bit in parts of Minnesota, probably in North Dakota, South Dakota, certain western parts of Texas. I think you would find it pretty well scattered. I think the same information would be available from the 1950 pricing survey that Mr. Shine has.

Q. How about this one, sir? Would you say that the areas in which you have depicted here that there is no differential, that those are areas which are customarily areas in which no differential is maintained between Budweiser and the local (1026) price beer?

A. It ranges all over the scale that we have there. There are some places where there is a number of outlets selling with no differential to the consumer over the bar. There are outlets, there are areas, towns or markets listed where there are considerable number of outlets where there is a five cent differential.

There are other areas where we have been able to demonstrate to ourselves that the differential had increased from five to ten cents as a result of the price action in October 1953.

Q. As I understood it, Mr. Hallquist, in answer to the Examiner's question, you said there are several areas

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in the country in which it is customary for the people to pay the same price for all beers.

A. Over the bar.

Q. Over the bar?

A. Yes.

Q. There are several areas that show up on this exhibit,—

A. That is correct.

Q. —that that is a fact, and I wanted to know if those are the areas you had in mind when you said, areas which customarily price all beers the same to all consumers over the bar?

A. I don't know whether they are in there or not.

(1027) Q. This is your survey?

A. Yes, sir. This was made a year and a half ago, too.

Q. You didn't familiarize yourself with the price to come here to testify?

A. No, sir. No, sir, I did not.

Q. Now, Mr. Hallquist, isn't it a fact that as in the similar areas in which the price to the consumer is the same, that there are certain types of outlets in which the price of all beers is the same to the consumer?

A. I couldn't say there was.

Q. Is the price to the consumer the same just, for example, well, the beer prices at the ball park in St. Louis, Missouri?

A. At the ball park, yes, at the ball park, St. Louis, all beer prices are the same.

Q. Do you belong to a country club, sir?

A. No, sir.

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Q. Have you had any occasion to become familiar with the prices obtained by Budweiser as well as its local competitors in country club outlets?

A. I have. I have also been in hotels, restaurants, various kind of outlets. I have been.

Q. Would you say in none of those kinds of outlets have you seen any that customarily price the beer the same to the consumer regardless of the brand of beer?

A. I don't think you can generalize on that, because there (1028) are some that might have no differential. There may be some that have a differential of five cents.

I think in St. Louis, the hotels traditionally have a five cent differential. I am quite sure that is true in many other metropolitan markets where the hotels would have a five cent differential.

Q. How about country clubs?

A. I am not a member of a country club and I don't think I am qualified to answer that one.

Q. Aren't you familiar with the consumer prices of the country clubs in your area when you were regional manager of the St. Louis area?

A. The country club represents a very insignificant part of the total beer volume.

Q. My question was not about volume; it was what is the price.

A. I don't attempt to find out because I am interested in the part of the market from which the bulk of the sales can be obtained.

Hearing Examiner Hier: May I interrupt, Mr. Mayer?

Mr. Mayer: Yes.

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Hearing Examiner Hier: You mentioned Chicago, Mr. Hallquist.

The Witness: Yes.

Hearing Examiner Hier: As being a market in which (1029) beers traditionally sell — perhaps not traditionally — but do sell over the bar at approximately the same price.

On Page 21 of Respondent's Exhibit 153, I note therein that on October 1, 1953, there were 403 outlets, selling at no price differential as between national and regional, only 30 with a five cent differential and but five with a ten cent differential.

The Witness: Did you say Page 21?

Hearing Examiner Hier: That is the page I think I have here.

The Witness: I have got the wrong page number.

Hearing Examiner Hier: Region No. 5. Perhaps it is Page 11. No. 21 is the page.

Mr. Barton: It is 23, I think, in ours. Somebody paged wrong.

Hearing Examiner Hier: West-North Central Region, Region No. 5.

Now, the record contains it. Will you refresh my recollection as to the number of outlets there are in St. Louis County?

The Witness: St. Louis and St. Louis County, there is a total of about 4,500 outlets.

Hearing Examiner Hier: 4,500?

The Witness: Yes. This isn't the City of Chicago.

Hearing Examiner Hier: It is not?

(1030) The Witness: No. We have a wholesaler who has a little wedge of the Chicago market. I mean

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as you can see there, this would not begin to cover the number of outlets there are in the City of Chicago.

Hearing Examiner Hier: Where is Chicago in here?

The Witness: It is not one of the points that we asked for information on at the time of this survey. You might be able—well, I was wondering about Philadelphia. That is one in which I think there were a fair number that had no differential between regionals and national brands.

Hearing Examiner Hier: Is Philadelphia comparable to St. Louis in the number of outlets, the amount of regional and local beer competition that you have there, as well as in population—Philadelphia is much larger.

The Witness: I think Philadelphia is probably a little tougher market than St. Louis. For Anheuser-Busch, from the standpoint that one thing that is always in our favor in St. Louis is that it is our home market. We have been there 103 years.

Hearing Examiner Hier: I want to ask you a question on another point.

You answered me this morning that this decision to lower prices in St. Louis on two different occasions was made finally by Mr. Busch. Are you in a position to assure me that you were present at enough of those discussions to know the (1031) reasons behind why he made this decision?

The Witness: Yes, sir. I made the recommendation for the first cut. I am sure that the reasons that I have outlined for proceeding in St. Louis to get more business and the reasons for wanting more business, I think that those were the reasons that Mr. Busch went along with my recommendations, because originally he had offered

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to give me additional sales manpower. I didn't think that would do the job that we wanted to do.

Hearing Examiner Hier: Come back at 1:10 o'clock.

(Whereupon at 12:10 o'clock p.m., a recess was taken until 1:10 p.m., this day.)

(1032) AFTERNOON SESSION

1:10 p.m.

Hearing Examiner Hier: All right.

JOHN R. HALLQUIST, JR., resumed the stand and testified further as follows:

Cross Examination—resumed by Mr. Mayer:

Q. Directing your attention, Mr. Hallquist, to the tabulation concerning Region No. 5, headed West North Central Region, William Bien, which discloses the sales outlets by selling price to consumer as well as the various price differentials to the consumer, in the tabulation and the comparison of the Budweiser price to the local price, would you name the local beers involved in that price comparison?

A. In one specific city?

Q. In Milwaukee, Wisconsin, I am sorry, sir.

A. I couldn't do it, Mr. Mayer.

Q. Would the report show that?

A. It would show which brands were considered local brands; yes, sir.

Q. Frankly, the reason for the question was that the identical figures appear under the regional brand, and what would that indicate to you, sir?

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A. I couldn't draw a conclusion without looking at the (1033) report itself, and then I don't know whether I could tie the brands that are listed as local and regional into this tabulation.

Q. Why not, Mr. Hallquist?

A. Well, in tabulating this information or setting it forth on the survey form itself, there are no brands listed. However, in the price request portion of the form there is located the national brands and the local and regional brands.

Q. I am not quite sure, Mr. Hallquist, that I have that answer straight in my mind. Does the report show when, as the tabulation shows, there is no differential between Budweiser and a local brand or some local brands, would the report identify those brands individually?

A. It would identify the brands that the wholesaler considered to be local or regional brands in the section where we asked him for the price to retailers for national, local and regional brands. That is where the local and regional designation would occur.

Q. Shall we take a look, sir, at the report from Milwaukee, Wisconsin?

A. Sure.

Q. Would you mind, sir, taking the report, the physical report —

Mr. Barton: So the record will be clear, Mr. Mayer, let the record show that the witness has taken out the (1034) original report, which is a duplicate of RX-12, and is now examining it; that it is a completed RX-12.

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By Mr. Mayer:

Q. Now, sir, would you tell us what brands on that particular report the wholesaler has listed, first, as national, then the brands listed as regional, and then the brands listed as local.

A. Listed as local brands are Miller, Gettelman, Burgemeister; and listed as regional brands are Weber and Fox Head.

Q. Does he have the national brands that he considers to be national listed, sir?

A. Yes, sir. He has Budweiser, Schlitz, Pabst, and Blatz. They are printed on the form, and he had added Miller here under the local designation. I don't know whether he means local or national.

Q. In your makeup of the tabulation, which one of the local beers or were all of them sold at those 351 outlets on October 1, 1953, at the same price as Budweiser?

A. There is a notation here that the locals include Gettelman and Burgemeister.

Q. But does this exhibit mean that all three locals were sold at the same price as Budweiser?

A. You mean over the bar? I mean, are you talking consumer price?

(1035) Q. This is price to the consumer; yes, sir.

A. According to this form here it says that there is a—there is no difference in 351 outlets in October 1 of 1953; on May 1, 1954, there was no differential in 364 outlets. It also says that there is a five-cent differential on October 1 in 767 outlets; on May 1 there were 767 outlets in which there was a five-cent differential.

John Hallquist, Jr., for Respondent—Cross

Q. Mr. Hallquist, maybe I was not too clear. From the way I understand this exhibit with regard to Milwaukee, Wisconsin, there are approximately 1125 outlets in which there is competition between Budweiser and a local beer.

A. That is correct, or a regional beer.

Q. Or a regional. I was concentrating more on the figures for a local.

A. Yes.

Q. Now, in the 351 outlets in which the price is the same, can you identify the local beer which is priced the same or are all local beers priced the same?

A. There is a notation here that the locals include Miller, Gettelman, and Burgemeister.

Q. All right, sir.

Now, according to that report, let me just ask a hypothetical question, if this would be possible, for instance: that in the outlets in which there is no price differential, that the competition in those outlets, is Miller's and (1036) Budweiser—in the outlets in which there is a five-cent and ten-cent differential, the competition may be between Budweiser and Gettelman, or Burgemeister?

A. Mr. Mayer, I couldn't draw a conclusion on that.

Q. I mean this chart does not reflect that.

A. That is correct.

Q. And it is possible then in this report that this did happen?

A. It is possible, I would say. I think that the only way you could determine that is by going back to the original records from which this information was taken.

Q. You can see that is one of my problems. I don't have the witness on the stand, you see. The man testi-

John Hallquist, Jr., for Respondent—Cross

fyng today is actually the wholesaler, and I am trying to find from you as much as you know about what he reported to you.

A. Yes.

Q. And you do not know, as I understand it then, in the 351 outlets whether all three locals were sold at the same price as Budweiser, whether one local was sold at the same price as Budweiser, or whether two locals were sold?

A. No, sir. There is no way of determining that.

Q. From this exhibit?

A. That is right.

Q. Nor from the basic information from which this exhibit is drawn?

(1037) A. If you are talking about the sales analysis form, you are correct.

Q. That is the only form of the information, isn't it, from which this exhibit came?

A. That is the only one we have here, yes.

Q. Not that "we have," this exhibit was drawn from this information and this information only, was it not, sir?

A. That is right.

Q. All right, sir; and it is all here?

A. All the forms that were used to tabulate this are here.

Q. The information appearing on this exhibit is drawn solely and completely from this information which you have supplied us?

A. That is correct.

Q. All right, sir.

John Hallquist, Jr., for Respondent—Cross

Now, sir, directing your attention to Los Angeles, California, on Region 8, headed Mountain and Pacific Region, John Flanigan, again it is the portion of the exhibit which indicates the various price differentials to the consumer.

A. Yes.

Q. Looking particularly at Los Angeles, California, sir, what area does the branch at Los Angeles serve, sir?

A. Roughly the City of Los Angeles.

Q. Is it limited to generally the metropolitan area of Los Angeles?

(1038) A. I would say to even the corporate limits of Los Angeles.

Q. Now, sir, would you again go to the basic records for us, sir, and get the basic information with regard to Los Angeles, California.

Now, sir, would you tell us, if you will, sir, the beers that were considered to be local as contained in that report.

A. Lucky Lager, Acme, and East Side.

Q. Now, sir, as I understand it, that exhibit shows no regional beers being sold in Los Angeles?

A. That is correct. They were — well, the tabulation here does not show a regional brand because a regional brand was listed with the national brand.

Mr. Barton: As a matter of fact, it says "No distinction between regional and national."

The Witness: That is right.

Mr. Barton: In other words, the other two regionals, the regionals there are Coors —

John Hallquist, Jr., for Respondent—Cross

By Mr. Mayer:

Q. In other words, your wholesaler considers Coors to be a nationally sold brand?

A. No, sir. For the purpose — Coors is listed here as a regional brand. However, in developing the information for the number of outlets with price differentials, he notes that there is no distinction between regional and national brands (1039) because they sell at the same price as national brands.

Mr. Barton: Mr. Mayer, the tabulation simply failed to include that there was no differential between Budweiser and national brands and Coors.

Mr. Mayer: Or any other regional that he classifies as regional?

The Witness: Yes.

Mr. Barton: According to the form it say "No distinction between national and regionals," and apparently the tabulation, it just wasn't carried over because there were not any more numbers in there.

By Mr. Mayer:

Q. Does this mean, sir, that there were only two outlets in Los Angeles, California, in which there was a price — in which the price was the same for the local beer as the national and regional beer?

A. At the time of the report; yes, sir.

Q. Now, sir, would you get the report for me, please, sir, of Sacramento, California.

Now, sir, would you name for us, if you will, the brands sold in that area which were classified as local.

A. Lucky Lager, Burgemeister, Regal Pale.

John Hallquist, Jr., for Respondent—Cross

Q. Now, sir, will you tell us the brands that were considered to be regional?

A. Rainier and Olympia.

(1040) Q. Does that wholesaler classify Coors as a national?

A. He has not listed Coors.

Q. It is not sold then in Sacramento, is that correct, sir?

A. Frankly, I do not know, sir. We didn't provide information nor did we request information as to all of the brands that are being sold on the market. He listed at his option the brands he wanted to put in.

Q. Mr. Hallquist, directing your attention to the special sales analysis for Cleveland, Ohio—

A. Yes, sir.

Q. (continuing) —would you tell us, sir, again the method of selection that you used in taking the two reports from Cleveland, Ohio, and North Carolina out of all the reports that were submitted to you.

A. For purposes of inclusion with this tabulation?

Q. Yes.

A. Simply because, for example, Cleveland, Ohio, is a major market. I don't think there was any specific reason for choosing it over any of the rest of them. I can say this: In the Cleveland tabulation here the shift in pricing is most pronounced, and I think that is one of the reasons that it might have been included, which it shows dramatically that quite a number of the outlets have moved from a five-cent differential to a ten-cent differential, and that the differential on six-can packs to consumers had widened considerably, (1041) in other words, from 19 to 31 cents.

John Hallquist, Jr., for Respondent—Cross

Q. Was there any particular reason, sir, for the selection of the report of Durham, North Carolina?

A. I would say that one of the important factors — page 49 — are the price increases of the various national brands and the fact that the regional brands listed in one case there was no change in its price to the retailer, and in the other case Ruppert had a five-cent decrease to the retailer.

Q. Now, sir, are these two reports representative of all the reports submitted?

A. I would say they are, except that I am not too sure what you mean by "representative." They are the same type of reports; they contained information gathered in the same way. Now the results from one report to another would differ, true; but I think they generally portray the situation that we were outlining in the summary here.

Q. Would you point out to me specifically on the Durham, North Carolina, report from the Ace Distributing Company, I take it, how we can come to any determination as to what he thinks national brands are or local brands or regional brands by name?

A. Well, he has listed Red Top and Ruppert as regional brands.

Q. And those, I take it then, are the only two regional brands in that area?

A. That he chose to list.

(1042) Q. If he wanted to, Mr. Hallquist, could he have chosen to report none?

A. I believe the form would have been returned to him because it would not have been complete.

John Hallquist, Jr., for Respondent—Cross

Q. What check did you make on this particular report to find out if those were the only two regional beers in that market?

A. We weren't interested in finding out or having all of the brand names listed. If we had been, we would have provided more information. As long as we got a sample of the local beers that were considered local by the wholesaler, and a sample of the regional beers as considered by the wholesaler, we were satisfied that we had a true picture of the general market condition, and we had information on those specific brands.

I think one of the important points in the Durham, North Carolina, report is that there was a shift from a 25-cent market in so far as Budweiser was concerned, to a 30-cent market. That is on page 48 or Section 1, page 3 of the Durham report.

Q. Of course, the information on that exhibit, I take it, is, in the top box at least is, only for Budweiser; is that correct?

A. That is only for Budweiser, and that is the thing I was pointing out, that pre-October, 1953, 475 outlets sold Budweiser at a quarter, and 33 sold Budweiser at 30 cents.

(1043) At the time of the survey report form date there were only 54 outlets left of the 475 that were selling Budweiser at 25 cents, and the balance or 441 had gone up to 30 cents.

Q. Mr. Hallquist, I believe on direct examination in your testimony this morning you introduced several maps detailing where you were unable to sell your product in the various sizes as indicated on the exhibit.

A. Yes, sir.

John Hallquist, Jr., for Respondent—Cross

Q. Have you had any occasion to or ever made a study to indicate the areas in which, particularly with regard to the areas in which, by law, you are unable to offer Budweiser in these particular sizes? Have you ever made any study to indicate what proportion of your volume of sales, therefor, is in areas in which you cannot arrest any decline in sales by introducing the particular packages indicated on this map?

A. Mr. Mayer, probably such a study has been made. I don't have it available to me, in fact, I don't know of such a study, whether we specifically said we couldn't get or what part of our volume these states would represent. However, I don't think that that would be a factor.

Q. Well, obviously in the states in selecting a solution to your economic problems, you knew in advance, being aware of the regulations of the various states under competent legal counsel, I am sure, that you couldn't get into certain states (1044) with certain types of packages.

A. That might be true of some, but there are other ones in which you would have no idea until you presented the packages to the state ABC Commission. They were in a position to pass regulations or to promulgate regulations which would permit that package, and that couldn't be done until you had gotten the package ready to market.

Q. Do you know —

A. There were other states where I do happen to know that legislation was pending which would change the law. In South Dakota you cannot sell a 7-ounce bottle. I know that legislation had been considered and was

John Hallquist, Jr., for Respondent—Cross

before the legislature there to permit the selling of containers under 12 ounces.

Q. But that would be one state that, at the time you were searching for answers to your problems, you knew it was against the law to market?

A. That is correct, sir.

Q. How many other of these states did you know at that time had regulations prohibiting distribution of your product in these size containers?

A. Regulations or laws?

Q. Laws.

A. In fact, I could not answer that question because I would have to go back to some documents that we had previously. I don't know whether we have gotten a list of those kinds of —

(1045) Mr. Barton: Mr. Mayer, we will agree to submit for the record a recapitulation of the legal situation in each of the states, if you want it. There has been a study made of that. We didn't—it is so many pages thick, and we didn't undertake to put it in the record. But if you would like to have it and put it in the record, we would be very happy to furnish it.

Mr. Mayer: I am not happy to have a thesis of legal conclusions.

Mr. Barton: The laws in this field are rather complicated, and it cannot be compressed into a one-page document.

Mr. Mayer: I hate to argue, but it has been compressed into one page right here. There it is. I don't know why it could not be compressed into one page in a field earlier than this. This is a one-page document.

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This is joint states in which 10-ounce containers cannot be marketed.

Mr. Barton: As of that date.

Mr. Mayer: March 31, 1955.

The Witness: Whether they were by law or by —

Mr. Mayer: Either one.

The Witness: Or by regulation?

Mr. Mayer: This is either way.

The Witness: That could be changed; I don't know.

Mr. Mayer: That is all right, sir. I don't think we can depend on that. I think we can take the volume of sales of (1046) Budweiser as of March 31, 1955, and at least get some figures as to their distribution, which could not be affected as of that date by a difference in package size.

By Mr. Mayer:

Q. Mr. Hallquist, do you have a copy of Respondent's Exhibit 176 there in your possession?

A. Yes, sir.

Q. Incidentally, Mr. Hallquist, would you know before getting into this, whether or not Texas prohibits this size, 10-ounce size, container by law?

A. Yes, sir. I think I previously testified that that is one of the markets that we couldn't get into with the new package that we were considering, and which, I would say, lent a lot of weight to our decision to market a new product.

Q. Now, sir, I wonder if you would tell me, sir, from your own personal knowledge, how much G.B. was sold at the \$2.15 case price for returnable 12-ounce bottles in St. Louis from November 15 through Friday, December 31?

John Hallquist, Jr., for Respondent—Cross

A. I haven't the slightest idea, Mr. Mayer.

Q. Do you know if a case was sold at that price?

A. No, sir; I do not.

Q. This is a price announcement, is it not, sir?

A. That is correct.

Q. Was it effective completely through Friday, December 31?

A. In so far as I know, it was.

(1047) Q. You have no indication that it was withdrawn?

A. No. I would—I could assume that it was not withdrawn because retailers who traditionally price beer for off-premise consumption in St. Louis were selling Griesedieck Brothers at a lower price during that period than they were other brands manufactured in St. Louis.

Q. And you have figures with you, I take it, to substantiate that?

A. No, sir; I don't have.

Mr. Mayer: Mr. Examiner, we have some more questions of Mr. Hallquist, but I request about a five- or ten-minute recess to go through my notes a little more thoroughly before finishing.

Hearing Examiner Hier: Do you have any further witnesses?

Mr. Barton: No.

(1048) Hearing Examiner Hier: I think this record should have a more accurate description in it, not technically but commercially, of this so-called Krausend process. I, perhaps, should have brought this up when the chemist was on the stand, and I think we can, perhaps, get it in through a series of questions of Mr. Hallquist.

John Hallquist, Jr., for Respondent—Cross

Am I right, Mr. Hallquist, in assuming that up until G.B. started that process, Anheuser-Busch was the only brewer in the country of any appreciable size which used it; is that correct?

The Witness: Mr. Hier, I don't know.

Hearing Examiner Hier: You do not know.

Now, the Krausend process is a much more expensive way to make beer because of the longer time it takes for the second fermentation, is it not?

The Witness: That is correct.

Hearing Examiner Hier: There is involved in it the use of, the longer use of, equipment, some extra material costs, but the main item is the labor and the time of aging; isn't that true?

The Witness: As a layman, I would say, yes; I am not a brewer.

Hearing Examiner Hier: Do you know when G. B. introduced that?

The Witness: I think their advertising indicated that (1049) it was in March or April of 1954.

Hearing Examiner Hier: Do you have any explanation or judgment as to why a brewery whose sales were on the down-trend would switch to a much more expensive process of making beer?

The Witness: I would assume to make a product that had better taste qualities than the one that they were previously making or taste qualities that would be acceptable to more people.

Hearing Examiner Hier: To correct the downward trend —

The Witness: Yes, sir.

Hearing Examiner Hier: (continuing) — perhaps.

John Hallquist, Jr., for Respondent—Cross

Do you know whether they went up in price as a result of adopting a more expensive production method?

Mr. Barton: Your Honor, there is some question about whether their — I do not think there is anything in the record about krausending, the krausending process itself —

Hearing Examiner Hier: I don't believe it is.

Mr. Barton: (continuing) making the process more expensive, and I am not certain that that is the fact.

Hearing Examiner Hier: I am not either.

Mr. Barton: This line of questioning is based upon the premise that krausending is in itself a more expensive process.

(1050) Hearing Examiner Hier: That is right.

Mr. Barton: I am not testifying, but there is some question of whether krausending is not a term like brewing; in other words, it is a generic term. But I would suggest that during the recess we have an opportunity to discuss this problem and, perhaps, we can stipulate on the record what the fact is as to that.

Hearing Examiner Hier: You want ten minutes, you say?

Mr. Mayer: Yes, sir.

(Short recess.)

Mr. Barton: Your Honor, I would like to state on the record that it is our understanding that krausending is a generic term like brewing. It is a description of a process that can be done in a number of different ways, and there is no standard or single way in which it can be done, and that we do not know what change in the cost of the making of G.B. Beer was caused by the adoption of the krausending process as advertised by them;

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i.e., whether it reduced their cost, raised it or it remained the same.

Hearing Examiner Hier: In your own brewery it is more expensive, is it not?

Mr. Barton: There is a big question as to whether the krausending process as such is the element which makes the brewing of Budweiser more expensive. Of course, there is the (1051) fact that there are—the choicest hops are used; there are other materials which are used in Budweiser which are not used in some other beers, which make that beer the more expensive. In other words, it is not, as I understand it, the krausending alone which contributes to the cost factor, and you can't say that krausending in and of itself is necessarily a concomitant with a high cost or a higher cost item.

Hearing Examiner Hier: Go on, Mr. Mayer.

By Mr. Mayer:

Q. Mr. Hallquist, are you familiar with the activities of Anheuser-Busch in the State of Texas and the general competitive situation existing there in 1953 generally, as they were testified to by Mr. Shine?

A. Not from personal observation; no, sir.

Q. What was your position, Mr. Hallquist, with the company during 1953?

A. I was Sales Manager of the Midwest Region. That, as I explained before, comprised—was comprised of Missouri, Kansas, Nebraska, Iowa, North and South Dakota, and Minnesota.

Q. Were you aware of the situation existing in Texas in 1953?

A. In the general conditions, I would say that I was.

John Hallquist, Jr., for Respondent—Cross

Q. Were you asked for any comments or any recommendations as to what Anheuser-Busch would do or what steps should be taken in the Texas market?

A. No, sir; I was not.

(1052) Q. I think you testified, Mr. Hallquist, that you recommended to the management the price reduction of Budweiser in St. Louis and St. Louis County?

A. That is correct.

Q. And at the time you made that recommendation what was your area of authority within the company?

A. At that time I was Sales Manager of the Midwest Region.

Q. And approximately how many states, sir, did the Midwest Region include?

A. Seven states.

Q. Seven states.

Were recommendations made by the other regional managers to the management concerning what steps Budweiser should take in their particular regions at the same time?

A. Not—you mean the same time that I made my recommendation?

Q. Yes.

A. No, sir.

Q. Did they periodically make recommendations to the sales management or to your top management concerning what should be done concerning the—or do they make any recommendations?

A. I am sure they did.

Q. They did, sir?

A. I am sure they did.

Q. Do you know what they were?

John Hallquist, Jr., for Respondent—Cross

A. No, sir; I don't.

(1053) Q. Now, in recommending the price reduction in St. Louis and St. Louis County, did you recommend a price reduction in any other area?

A. No, sir; I did not.

Q. You did not?

Hearing Examiner Hier: Did anybody else?

The Witness: Mr. Hier, I don't know at that time. I know that there were recommendations at a later date, but at that specific time I know of none.

By Mr. Mayer:

Q. Do you know if there were recommendations made, speaking now with relation to the Texas situation, as to a reduction in price in Texas?

A. No. I had heard it discussed, but I don't know whether anyone made a formal recommendation.

Q. Did the top management ever consider it?

A. Apparently they have. I know that, as has been stated, we tried everything in Texas but a price reduction and, as a matter of fact, in the early part of this year we did make a slight reduction in the State of Texas.

Q. Now, Mr. Hallquist, were you present for the testimony as it was given by the various retailers that were called in this matter this week?

A. Yes, sir.

Q. Did you talk to those gentlemen before they were called (1054) to the witness stand?

A. Yes, sir; I talked to all of them at, I would say, their place of business.

Q. Would it be your conclusion that the G.B. losses incurred by the company outside the St. Louis and St. Louis County area were because of product trouble?

John Hallquist, Jr., for Respondent—Cross

A. Well, from the testimony of the witnesses, I would say that there were probably several things that contributed to their sales losses outside of St. Louis as well as in St. Louis.

Q. And that product trouble was, therefore, one of the causes of the loss?

A. A very definite one; yes, sir.

Mr. Mayer: That is all we have, sir.

Hearing Examiner Hier: Do you have any redirect?

Mr. Barton: No, I have no redirect, Your Honor.

Hearing Examiner Hier: I guess that is the end for you, yes.

The Witness: Thank you, sir.

Hearing Examiner Hier: Thank you, sir.

(Witness excused.)

Mr. Barton: Your Honor, the defendant rests its case.

Hearing Examiner Hier: You mean the respondent rests, Mr. Barton.

Mr. Barton: I am sorry; the respondent rests. May (1055) the record be corrected.

Hearing Examiner Hier: Yes.

Mr. Mayer: Mr. Examiner, as you know, during this week we have had a good bit of statistical information introduced into the record and a considerable number of exhibits, and at this time I feel that I am unable to inform the Examiner exactly as to whether I intend to take any rebuttal testimony or not or where, and I should also like to be given time for some statistical analysis before making a motion to strike any of the testimony or exhibits which have been introduced in this week of hearings.

Colloquy

Hearing Examiner Hier: Well, I agree with you that you had a pretty heavy meal shoved at you for digestion.

Would January 20th be time enough for you to inform me as to whether or not you wished to put on any rebuttal or make any other move?

Mr. Mayer: I do not think so, sir, at the moment.

Hearing Examiner Hier: How much time do you want?

Mr. Mayer: I should like until the end of the first week in February, somewhere in that neighborhood; I think I should be able to inform you definitely, sir.

(1056) Hearing Examiner Hier: Well, I shall not be able to resume hearings, if hearings are necessary, in this case before February, and neither will Mr. Barton.

The point I am getting at is that you cannot set a hearing two days, five days, or one thing or another after I get notification from you. So I was thinking about getting the notification from you a bit in advance of when you might have such additional hearings as are necessary. You say you do not believe you can accomplish this work before the end of the first week in February?

Mr. Mayer: I don't think so, sir.

Hearing Examiner Hier: I do not think it is an unreasonable request. However, I would like to get this case wound up before it is a year old though, and it will be a year old in June.

Mr. Mayer: Yes, sir.

Mr. Barton: We will move with expedition, I think all of us, Your Honor.

Hearing Examiner Hier: All right. You notify me by the 5th of February what your disposition is, and if you would desire more hearings, that is, if the 5th is

Colloquy

not on a Sunday. I don't have a calendar here. If you desire more hearings for rebuttal purposes —

Mr. Barton: The 5th is a Sunday.

Hearing Examiner Hier: Make it the 6th.

(1057) If you want to take more proof, you advise me of the time and where you want to take it, and if that is the case, hearings will resume in this case, Mr. Barton, probably along the 20th, somewhere along in there, depending upon my other commitments which, at that time of the year, will be fairly heavy.

Mr. Barton: I have one commitment that is not yet fixed, that will be in February, argument, final argument, in Milwaukee, which I will know about—I take it that they will not begin before February 20, is that what we are now saying?

Hearing Examiner Hier: That is right.

Mr. Barton: I will try to fit that in.

Hearing Examiner Hier: They will not begin before February 20. They will probably begin around that date.

Mr. Barton: I will try to fit it in.

Hearing Examiner Hier: So that if we have to go out of town for this hearing I can make suitable arrangements.

Now, if you contemplate making any motions to strike a whole line of testimony and exhibits, then you might just as well at the time get up whatever memorandum of reasons which you have in mind, because this case will not be fresh in my mind come February 15, the 5th or 20th or anything else, and I will have to go over it again.

Furnish a copy to the other side.

Colloquy

Mr. Barton: We would like an opportunity, Your (1058) Honor, to file a counter-memorandum in the event there is one filed.

Hearing Examiner Hier: I think you can handle it orally, don't you?

Mr. Barton: Sir?

Hearing Examiner Hier: I think you can handle it orally. Neither one of you has got any precedent, I know that right now. I mean this question of whether or not testing the market is a defense to this type of case in the manner in which it has been done here is without precedent, as far as I know.

Mr. Barton: Your Honor, I think the concept of the meeting competition, and the legislative history and the statements which are made in a number of the cases on this whole subject of meeting competition, while not directly applicable, arguably applicable in the sense that we are not contending that testing the market is itself a defense. We are asserting that it is a part of the meeting competition defense.

Hearing Examiner Hier: Well, if I remember correctly, practically 95 per cent of the evidence which has been introduced here this week after Tuesday noon was tendered on not one or two or the third ground either, but on all three grounds, to wit: The equally low price of the competitor, section 2(b) of the Act, changing market conditions and, three, testing the market; that is correct, is it not?

Mr. Barton: That is true, Your Honor.

(1059) Hearing Examiner Hier: Because, if I recall correctly, I tried to pin you down on one ground or the other, and you skidded badly on definition.

Colloquy

All right, we are on three grounds then. You can keep that in mind if you are going to make such a motion. I haven't, as a result of listening to this testimony, changed my *prima facie* opinions about this being competent on meeting competition, but that does not mean they cannot be changed, by any means.

All right then, I guess that winds this up for the rest of this year.

Mr. Baker: May I have that last read back?

(The reporter read the statement.)

Hearing Examiner Hier: What I mean by that, Mr. Baker, is the opinion I expressed the other day, namely, I believe, if you exercise your choice of meeting competition, your second choice, take the area, pick the area, in which you meet it, that you must justify it or prove it, it being in the nature of an affirmative defense by conditions in the area which you yourself pick, and not by conditions existing outside of that trading area, and in other places of the United States. I say that is the *prima facie* opinion I expressed the other day. I am still of the same opinion on that phase of it, but I am not going to go into a lot of discussion now. I may encourage him, I may encourage you, (1060) and we will just let it lay the way it is.

Mr. Baker: Since Your Honor is of that preliminary opinion, if Mr. Mayer submits a memorandum on this point, it is a major defense of Respondent in this case, and we would very, very much like to have ten days at least to answer that in writing before it is argued.

Hearing Examiner Hier: Well, I will cross that bridge when I get to it, Mr. Baker. I don't think you

Colloquy

have found from past experience with me that I have not given you ample opportunity to present your views.

Mr. Baker: That is correct.

Hearing Examiner Hier: I think the last one you unloaded on me ran around 250 pages.

Mr. Baker: I hope it was as impressive as it was lengthy.

Hearing Examiner Hier: We will cross that bridge when we get to it. Bear in mind that if I think this evidence does not constitute a defense on one ground, it does not mean that it may not be admissible or stay in the record on another ground.

Mr. Barton: We hope to persuade Your Honor that the legal concept of meeting competition is somewhat broader than the prima facie reaction.

Hearing Examiner Hier: I know you do. All right.

(Whereupon, at 2:35 p.m., December 16, 1955, the hearing in the above-entitled matter was adjourned.)

August A. Busch, Jr., for Commission—Direct

(1061)

Tuesday, May 15, 1956.

Met, pursuant to recess, at 10:05 a.m.

Before: Frank Hier, Hearing Examiner.

Appearances as before.

(1062)

P R O C E E D I N G S

Hearing Examiner Hier: All right. Call your witness.

Mr. Mayer: We would like to call Mr. Busch, Mr. Examiner.

AUGUST A. BUSCH, JR., was thereupon called as a witness for the Commission and, having been first duly sworn, testified as follows:

Direct Examination by Mr. Mayer:

Q. Will you give the reporter your full name, Mr. Busch, and your business address.

A. August A. Busch, Jr., Anheuser-Busch, St. Louis, Missouri.

Q. What position, Mr. Busch, do you hold with Anheuser-Busch?

A. I am President of the company.

Q. And how long have you been President of the company, sir?

A. Since the death of my brother, approximately ten years ago.

Q. And how long have you been associated with the company?

A. Practically all of my life.

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Q. Have you ever been associated with the company in any (1063) active sales capacity, Mr. Busch?

A. Yes, sir.

Q. And when was that, sir?

A. I forget the exact date. I was Vice President in Charge of Sales and Production for a good many years.

Q. Now, sir, what are the duties of your present office with the company?

A. I think normally that of any president of any big company.

Q. I take it, then, you take a very active interest and part in managing the affairs of the company, do you not, sir?

A. Certainly.

Q. And, too, that you in your capacity stay pretty well informed about all of the aspects of the business conducted by Anheuser-Busch?

A. Certainly as much as possible, sir.

Q. Now, sir, it was in 1953, was it not, that Anheuser-Busch became the Nation's leading beer seller, was it not, sir?

A. We had been prior to that, and I don't recall the dates. We have been up and down; first and second positions.

Q. And were you the Nation's leading seller in 1954, sir?

A. I believe we were.

Q. Now, Mr. Busch—

(1064) A. No. Not in 1954. I take that back. We were not the leaders in 1954 if I recall correctly.

Q. The record contains evidence setting forth reductions in price of Anheuser-Busch of its Budweiser beer in St. Louis at certain times, and now, sir, I would like

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to ask you why did Anheuser-Busch lower the price of Budweiser in St. Louis and St. Louis County in January of 1954?

A. Anheuser-Busch raised its prices in October, if I recall correctly, of 1953, and after raising the prices nationally with the exception of Missouri and Wisconsin, our sales started to decline.

We needed more volume to sustain the decline we had in the Mid-West.

Q. Now, sir, why did you further lower the price of Budweiser in St. Louis and St. Louis County to the price of Falstaff in June of 1954?

A. Our first reduction, I think, was 25 cents a case, and the date I don't remember. We endeavored to try to have the on-premise retail outlet give an extra push to our product by giving them more profit.

In the experiment in reducing the prices to St. Louis and St. Louis County we found that the off-premise sale did not react with that reduction in price.

Q. That was the reduction of January?

A. That is right.

(1065) Q. And that was the reason for lowering the price again in June?

A. That is one of the many reasons. We have many reasons for reducing our prices as we looked at it.

Q. Well, would you detail for me some other reasons for lowering your price?

A. First of all, loss of volume of business.

Secondly, we picked St. Louis as an experimental end of it. Our competitors had told our consumers that Budweiser was extremely tart and bitter in taste.

We wanted to try out again whether that was a factor, whether the taste of Budweiser was what we claimed it was, superior to that of other products.

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We had in St. Louis our own wholesale setup, which means that we deliver our own product direct to the retailers. We had our own sales force in St. Louis that we thought was a good one.

We wanted to judge again in St. Louis what would happen on the off-premise sale and the on-premise sale with the reduction in price to gain back the volume.

Another thing. St. Louis is a big metropolitan area. It is a good test market as we viewed it, and our chief competitor in that market in the Middle West at that time, and he is today, was Falstaff, a coin name, as I put it, as a regional product.

(1066) Q. Now, sir, with the statement with regard to loss of volume being one of the reasons, was there any particular area in which your loss of volume was more important to you that might have dictated that reduction in price in St. Louis?

A. It was through the Middle West to the Mid-West area, to the main.

Q. Well, isn't it a fact that there was a definite relationship between the Budweiser price reduction in January and the over-all Texas sales situation of Budweiser as it existed in late 1953, sir?

A. No question about that. And if I could have made our reduction in Texas instead of St. Louis, I think we would have done it without any argument.

Our principal reason for not making it in Texas was because Falstaff again has a plant in New Orleans which is located, as you well know, very close to Texas. We have freight rates out of St. Louis that are higher, and even today it would be a little bit more competitive because Falstaff has just acquired two more plants in the State of Texas, and they lead by a good majority in the State of Texas today.

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Q. As a matter of fact, the Texas situation disturbed you so much you went down there in your private car personally, didn't you, sir?

(1067) A. I made many trips to Texas, yes.

Q. And I also understand that you actually tended by yourself on occasion in an effort to find out what the consumer reaction was to Budweiser beer, why it wasn't going as well as you hoped it would, didn't you, sir?

A. That is correct.

Q. Now, sir, with relation to not cutting the price in the State of Texas, did you ever discuss this with any other members of your staff as to whether or not you might cut the price in Texas of Budweiser?

A. Yes. I think it was discussed. All of our problems were discussed after the October raise in 1953, and when our business started to slip off; we think that we have a heck of a responsibility not only to our employees, but to our stockholders, and when our business went off as drastically as it did, starting in November, as I recall it, and I believe we lost some 800,000 barrels of beer in 1954 and 170,000 barrels of beer in the first four months of 1955, it was certainly alarming, and we discussed many, many angles.

Q. Now, sir, paying particular attention to the Budweiser situation in Texas, didn't you as a matter of fact discuss this at length with your general counsel about the advisability of lowering the Budweiser price in the State of Texas?

A. That could have been. I don't recall that specifically.

(1068) Q. As a matter of fact, he recommended against it, did he not, sir, for certain legal reasons?

A. No, that is not true, to the best of my recollection.

August A. Busch, Jr., for Commission—Direct

Q. Do you have any particular independent recollection about ever having spoken to him about the possibility of reducing your price in the state of Texas?

A. Yes. We did not pass on the tax increase in Texas in September of 1955, if I recall the date correctly. We discussed that. So, in effect, we lowered our prices or held our prices. We absorbed the tax in the state.

Q. But in 1953 didn't you consult with him about lowering your price, your then price, in the state of Texas?

A. I certainly might have, but I can't tell you distinctly that it was not advantageous for us because of the freight and because of our principal competitor, namely Falstaff, having a plant in New Orleans, and it was too costly to make that move.

The potentials certainly were greater in Texas volume-wise than they were in St. Louis or St. Louis area. It was very tempting. I imagine if we had had our plant built in New Orleans, we would have unquestionably reduced our prices in Texas.

Q. If the plant had been constructed in New Orleans?

A. Yes, sir.

Q. As far as the location of the Falstaff plant is (1069) concerned, Mr. Busch, Falstaff also has a brewery located in St. Louis, Missouri, has it not?

A. That is correct.

Q. Therefore, in St. Louis Falstaff had neither greater differentials or any other expense that it would not have had in St. Louis and shipping to Texas. Yet you still chose St. Louis as opposed to Texas, even though Falstaff had the same advantages in each area.

A. That is perfectly right.

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Q. Now, sir, this record is replete, to say the least, with evidence concerning the growth of the Falstaff Brewing Company, and as a matter of fact, these price reductions of Anheuser-Busch in St. Louis actually were an attempt by Anheuser-Busch, were they not, to arrest the increasing sales volume of Falstaff in St. Louis and St. Louis County?

A. I think I would answer that this way. They were certainly set up to increase our volume, and to make experiments as we went along to see what happened on the off-premise sale and on the on-premise sale, and together timing the situation for us so that we could come out, and as we did when we raised our price after some seven months of the experiment, on the taste test problem for Budweiser, it is a coincidence, but I think about ten or fifteen days after we raised the price we came out with another product.

Q. But at least part of the reason for this price reduction, (1070) as I understand it, was to arrest increasing sales volume of Falstaff in St. Louis and St. Louis County, was it not?

A. It was to give us more volume.

Q. And to stop their increase in St. Louis and St. Louis County?

A. Competitive-wise, of course.

Q. Now, sir, the date intrigues me, as of January 1954 price reduction-wise. Wasn't that date set because you were waiting until the end of the calendar year of 1953 to see what Falstaff was going to do with its prices in the Texas area?

A. Not at all, sir.

Q. All right, sir.

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Then why was January selected as the original lowering of the price date?

A. I can't recall that there was any significance put on January or February or any one month. Our sales were declining. We were trying to find out what to do about the gigantic loss that had started in our business and how we could arrest the losses we were sustaining.

Q. Now, as a matter of fact, Mr. Busch, didn't you know that the labor contract of Falstaff might not run out until the end of the calendar year 1953?

A. Their labor contracts run out the same time as ours do.

Q. And you felt, didn't you, that if they were going to (1071) increase their prices, it might not be until the end of the calendar year 1953, didn't you, sir?

A. I see no connection in your connecting together the labor contract and the price decrease of ourselves.

Q. The national shippers increased their prices after the settlement of the brewers' strike in Milwaukee in 1953, did they not?

A. In October 1953.

Q. Now, was that generally true of all the brewers throughout the country?

A. No, sir. For the first time I think in the history of the brewing industry, when the large shipping brewers increased their price for the first time, as I recall it, in the brewing industry the regionals and locals in some areas did not increase their price.

Q. Did not increase their price?

A. That is correct.

Q. And some of these regionals and locals were your three local competitors in St. Louis who were also competing with you in the State of Texas, were they not, sir?

A. Yes, sir.

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Q. They were.

Now, sir, isn't it logical to assume that you waited until the end of the calendar year 1953 to see what the three locals were going to do with regard to price when (1072) their labor contracts came up prior to your reduction of price of Anheuser-Busch in St. Louis, Missouri?

A. I still can't see any connection. No. Our adjustment wasn't made over what they were going to do. I imagine we wouldn't have done anything had they raised, to be perfectly frank and honest with you. But I don't get the connection with the labor contract or what they were going to do because of our reduction and the date we set for it.

Q. Now, Mr. Busch, who first made the specific recommendation in your company with regard to lowering the price of Budweiser in St. Louis?

A. As I specifically remember it, Mr. Hallquist, who was then Mid-West Regional Manager, made the recommendation to me on the reduction of price.

Q. Now, as I understand from one of your previous answers, you had numerous conferences, and so forth, with regard to your particular sales situation existing at that time.

A. There is no question about it at all. It was discussed by many of our officers at the plant, by some of our directors, as business decisions are usually discussed very thoroughly when a move like that has to be made.

Q. Now, sir, what was Mr. Von Gontard's and Mr. Barsi's reaction to the recommendation to lower the price of Budweiser in St. Louis and St. Louis County only?

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A. I don't recall what their specific recommendations (1073) were.

Q. Well, sir, did you receive any recommendations from any other members of your staff with regard to lowering your prices anywhere else other than in this city and county of St. Louis?

A. No. It was talked of in many areas just like it was in Texas.

Q. And could you outline for us the reasons why the other recommendations for lowering prices in other areas were not acceptable to you, sir?

A. I think I answered it to begin with, that the freight situation is the big factor. Again, St. Louis is a big metropolitan area. Again, we have our own branch there, so that we would not be able to have to go to one of our wholesalers and ask him to make a reduction to the retailer.

We could better watch the situation and see the results if we did it in St. Louis.

We also have no warehousing problems in St. Louis, because we deliver direct from our lines because of our plant being located there. And management had a fine observation of what was going on in the reduction of price.

I might add there that I don't think price alone would have given us the increases that we had. We had the facilities, as a matter of fact, to entertain the retailers both on and off-premise.

(1074) Mr. Anheuser and myself, for example, invited out to Grants Farm, my mother's home, over 11,000 retailers in eleven nights. I think that was a very significant thing in helping us get our increases there.

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My reason for that is that the on-premise retailer, even with a reduction in price, did not pass it on to the consumer, and even after seven months, approximately fifteen per cent of the retailers still kept the price of Budweiser five cents higher than that of our competitors.

(1075) Q. Would you say 85 per cent cooperation, let's call it, by the retailers was an insignificant percentage of retailers who lowered their price of Budweiser to the exact retail price of your competitive beer?

A. I certainly do. I can give you a perfect example of that.

We tried to roll back, so to speak, our prices in the State of Ohio after our increase. In the State of Ohio the retailer, because it goes to the wholesaler and then to the retailer, the retailers raised in a great many instances, a nickel across the bar in the on-premise sales. In some instances, 10 cents over the locals. We have just accomplished within the past few months after this roll-back occurred some two years ago, if I recall correctly, where we have now eliminated a 10-cent spread between local and regional beers over Budweiser.

Q. Now, sir, to get back to the lowering of your price at St. Louis, Missouri, have you or any of your executive or sales personnel ever stated that the failure of Falstaff, Griesedick Bros. and Griesedick Western, to have enough business sense, in your opinion, to increase prices subsequent to the National Brewers strike in 1950 was primarily responsible for the January price reduction in St. Louis?

A. I did not.

Q. I said you, or any of your executive or sales personnel.

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(1076) A. I am quite sure that none of my executives would have said that. They have to speak for themselves. As far as I am concerned, I certainly did not.

Q. May I suggest, then, sir, that the failure of Falstaff and Griesedick Bros. and Griesedick Western to have business sense enough, in your opinion, to increase their prices after the settlement of the Milwaukee strike was the real reason for the price reduction of Budweiser in January 1954, was it not?

A. Competitive-wise, certainly.

Q. All right, sir. Now, may I suggest, too, that the relatively disappointing increase in sales subsequent to January of 1954, together with the low prices of Falstaff and Griesedick Bros. and Hyde Park in Texas, was the reason for the further price reduction in June of 1954, wasn't it, sir?

A. No. The further reduction in price came about again by the recommendation of Mr. Hallquist. We did enjoy a very nice increase with the first reduction of 25 cents, as I recall it, but not on the off-premise sales or the grocery store, and today the beer business in my opinion is changing very rapidly, and the off-premise outlets are becoming more important for the brewing industry than the on-premise outlets.

Q. Mr. Busch, from the testimony in the proceeding, I take it, or I know, that there was quite an extensive sales campaign (1077) conducted by Anheuser Busch in connection with your lower price similar to the activity which you described a moment ago, the entertainment of retailers, the bringing in of salesmen from the Chicago area, the announcement of the price reduction and the having the salesmen on the streets on Saturday when no

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other competitive brewer had salesmen on the streets the same day, and so on.

Now, also there were photostatic copies, as I understand it, of advertisements which had appeared in Texas newspapers showing the low prices of Falstaff and Hyde Park and Griesedick Bros. in Texas, and that these photostats were supplied to your drivers in St. Louis in connection with this sales campaign, were they not?

Mr. Barton: That is a rather involved question.

Hearing Examiner Hier: Let's ask the witness: Is it too involved for him.

The Witness: Frankly, Your Honor, if it happened, I don't know anything about it. That would be the way I would have to answer it.

Hearing Examiner Hier: In other words, you can't answer it?

The Witness: I can't answer it, sir.

Hearing Examiner Hier: Rephrase it.

By Mr. Mayer:

Q. Mr. Busch, didn't you hold meetings with your salesmen (1078) prior to announcing the price reduction in St. Louis?

A. I certainly did.

Q. And in connection with the lowering of the price of Budweiser in St. Louis and St. Louis County, didn't you also hold meetings with your drivers on occasion?

A. Our drivers are our salesmen, so we call them driver-salesmen. I misunderstood you. I assumed you meant driver-salesmen.

Q. Now, sir—

A. Yes, I did.

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Q. Now, in one of these meetings, weren't your driver-salesmen supplied with photostatic copies of advertising showing low prices of Falstaff, Griesedick Bros. and Hyde Park, as they were advertised in Texas newspapers?

A. Not when I was present at any of those meetings, to the best of my recollection.

Q. Was it done at any meeting other than one at which you were present?

A. That, I can't answer you, again.

Q. Mr. Busch, on Exhibits 43 and 44, Commission Exhibits 43 and 44, reference is made there by your salesmen to Mr. Busch's story as he told it to prospective purchasers of Budweiser in St. Louis.

Now, sir, would you tell us what that story was?

A. What I told my salesman?

(1079) Q. Yes, sir.

A. In brief, that they had a great advantage because our price now was down to the regional beers; that it was now the time to test Budweiser, that they had been told and our competitors had used it against us, that Budweiser was too tart and that is the reason that sales were going very slowly in St. Louis. They had no excuses whatsoever any longer, that they should try to have the consumer test Budweiser as against Falstaff because of the price situation, that they should go and work on the on-or-off premise retail outlets to the best of their ability and that they should spend as much time contacting the trade as they possibly could.

Q. May I suggest another facet of that story, Mr. Busch, which you might have overlooked. That, in an effort to relieve the stigma which might attach to the

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nation's leading seller for being a price cutter in its own home town, that you informed these salesmen to inform the prospective customers that in reality this was merely a reduction of price by Anheuser-Busch to meet, if we may use that language, the price reduction of Griesedieck Bros., Falstaff and Hyde Park as it then existed in Texas.

A. No, I don't recall that a bit.

Mr. Mayer: That is all we have, Mr. Examiner, for Mr. Busch.

Hearing Examiner Hier: Cross examination?

(1080) Mr. Barton: May we have a couple of minutes, Your Honor?

Hearing Examiner Hier: Off the record. We will take a short recess.

(A short recess was taken.)

Hearing Examiner Hier: On the record.

Mr. Barton: No questions.

Hearing Examiner Hier: Do you have anything further?

Mr. Mayer: No, sir.

Hearing Examiner Hier: You are excused.

Mr. Mayer: Mr. Examiner, may we have a few moments to get a few tabulations ready before we put the next witness on?

Hearing Examiner Hier: How much time do you want?

Mr. Mayer: Not more than five minutes, sir.

Hearing Examiner Hier: All right. Let's suspend for five minutes.

Ferd Gutting, for Commission—Direct

(A short recess was taken.)

Hearing Examiner Hier: On the record.

Mr. Mayer: Mr. Examiner, we would like to call at this time Mr. Ferd Gutting.

FERD GUTTING was thereupon called as a witness for the Commission and, having been first duly sworn, testified as follows:

Direct Examination (1081) by Mr. Mayer:

Q. Now, Mr. Gutting, would you state your business address, please?

A. Griesedieck Bros. Brewery Company, St. Louis, Missouri.

Q. And are you here today in response to a subpoena, sir?

A. Yes, sir, I am.

Q. In what capacity are you employed by Griesedieck Bros.?

A. I am employed as Comptroller of the company.

Q. And how long have you been employed in that capacity?

A. Approximately fourteen years.

Q. Generally, Mr. Gutting, what are your duties as Comptroller for the Company?

A. Generally, I am responsible for all record keeping of the company, including the accounting functions, payment of bills for merchandise and services, and also financial matters.

Q. I take it, then, you are the official custodian of the books and records of the company, is that right?

A. Yes, sir, I am.

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Q. Now, Mr. Gutting, at my request have you prepared several sales tabulations reflecting the sales of your company for the calendar years 1952, 1953, 1954, and 1955?

A. Yes, sir.

Q. Would you hand those to me, please, sir?

Mr. Mayer: At this time, Mr. Examiner, I should like to have marked as Commission's Exhibit for identification (1082) 69-A, B, C, and D, a full page document headed "Griesedieck Bros. Brewery Company Sales."

Hearing Examiner Hier: What year?

Mr. Mayer: Each year is separately indicated on it for 1952, 1953, 1954, and 1955.

(The document referred to was marked Commission's Exhibit No. 69-A through D for identification.)

Mr. Mayer: I should also like to have marked as Commission's Exhibit 70 for identification a one-page document headed "Sales Comparisons".

Hearing Examiner Hier: Comparisons between what?

Mr. Mayer: The explanation is on the exhibit, sir. Comparison between various purchasers inside and outside of St. Louis.

(The document referred to was marked Commission's Exhibit 70 for identification.)

Mr. Mayer: I should also like to have marked as Exhibit 71 for identification a one-page document headed "Anheuser-Busch, Incorporated, (barrels sold)".

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(The document referred to was marked Commission's Exhibit No. 71 for identification.)

(1083) Hearing Examiner Hier: For what years are the last two exhibits?

Mr. Mayer: Commission Exhibit 70 is a summary of Commission Exhibit 69 and pertains to the years 1953, 1954, and 1955.

Commission's Exhibit 71 pertains to 1953, 1954, and 1955.

Mr. Barton: Who prepared 71?

Mr. Mayer: We will ask the witness that.

Hearing Examiner Hier: Have those been marked?

Mr. Mayer: Yes, sir. I have marked them.

Hearing Examiner Hier: All right.

By Mr. Mayer:

Q. Now, Mr. Gutting, were those exhibits prepared by you, sir, or directly under your supervision.

A. Yes, sir.

Q. Now, directing your attention to Commission's Exhibit for identification 69 and particularly in regard to 69-A, would you tell us, sir, the source or sources of the information contained in the various columns in that particular exhibit?

A. These figures were taken from a historical record that is kept by our company on a daily basis by sales divisions and by packages.

Q. And are they books and records which you keep in the normal course of your business?

(1084) A. Yes, sir.

Q. Now, sir, would you direct your attention to Commission's Exhibit 69-A and explain for us, sir, the mean-

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ing of the various headings and the various figures which appear on that exhibit?

A. Yes, sir.

First of all, the notation appears on there that all cases are in terms of 24 twelve-ounce. By this, I mean that the various types of package goods that are sold, whether they are cases of seven-ounce bottles or quart bottles or what have you, they are all interpreted in this schedule in terms of cases of 24 twelve-ounce bottles. The tabulation is broken down into three sales divisions of our company, St. Louis and county, East St. Louis, wholesalers, and then those figures are all brought into totals, horizontally. Each of those sales divisions is broken down into draught beer and package beer. Draught beer is shown in terms of barrels and package beer is shown in terms of cases of 24 twelve-ounce denominations. The report further indicates six months sub-totals and totals for the year.

Q. Now, Mr. Gutting, by combining the East St. Louis purchases and the wholesale purchases, we do get the totals, don't we, of the company business done outside the limits of St. Louis and St. Louis County?

A. That is correct.

(1085) Q. Now, sir, directing your attention to Commission's Exhibit for identification 70, sir, would you explain for us the headings of the various columns and the meaning of the various figures appearing thereon?

A. This exhibit is a summary of the exhibit which we have just discussed. It is a matter of tabulating the six-months totals of each year and breaking them down into the same sales divisions as the previous exhibit.

Ferd Gutting, for Commission—Direct

Q. Now, sir, as I understand it, then, all of the figures appearing before the entry in the left-hand column, Anheuser-Busch, Inc., are taken directly from the figures appearing on Commission's Exhibit for identification 69, are they not?

A. Well, they are the figures as tabulated on your Exhibit 71 and are brought to this summary.

Q. All right, sir.

Now, directing your attention to Commission's Exhibit for identification 71 —

Hearing Examiner Hier: Just a moment before you get to that.

The last two columns to the right hand side on Exhibit 70 across from the notation "Anheuser-Busch, Inc." the figures are not complete. Why is that?

Mr. Mayer: I am going to explain that, sir, with the identification of the next exhibit which supports the information appearing on it.

(1086) Hearing Examiner Hier: All right.

By Mr. Mayer:

Q. Now, directing your attention to Commission's Exhibit for identification 71, Mr. Gutting, as I understand it, all of the figures appearing on Commission's Exhibit for identification 71 are taken directly from the quarterly and annual reports of the Anheuser-Busch Company for the various quarters indicated, are they not, sir?

A. Yes, sir.

Q. And, as I understand it, in 1955, the reports themselves rounded off into — they rounded the figures off into

Ferd Gutting, for Commission—Direct

the hundreds of thousands as they appear on Commission's Exhibit for identification 71.

A. For the year 1955, their quarterly reports did not indicate the barrelage for the particular quarter, but the annual report to the stockholders did report the total barrelage and also in summary form, reported the quarterly sales as they are shown on the exhibit.

Q. Now, sir, directing your attention to Commission's Exhibit for identification 70, and in particular to the heading, "Brewery Total" under "Anheuser-Busch, Inc.", do the figures appearing opposite that company represent the total sales in barrels of all the brewing facilities of the Anheuser-Busch?

A. Yes, sir, as they were reported to their stockholders.

(1087) Q. Now, sir, with relation to the heading "Missouri Tax paid withdrawals" on Commission Exhibit for identification 70, does that include all of the tax paid withdrawals of all the brewing facilities located within the State of Missouri?

A. That is correct.

Q. Now, Mr. Gutting, have you had an opportunity to make a spot check of Commission's Exhibit for identification 69 with regard to the figures appearing thereon as compared to the figures appearing on Respondent's Exhibit 18?

A. Yes, sir, I have.

Q. And what were the results, sir, of that spot check?

A. I find, sir, that the figures are correct with the following explanation:

On Exhibit 18, cases of quarts were reported on that form in terms of statistical cases and were not converted to 24 twelve-ounce terms. There is a difference.

Ferd Gutting, for Commission—Cross

Q. As I understand it, then, in converting the case quarts into the actual 24 twelve-ounce cases that you have stated on Exhibit for identification 69, the figures do check then, with the figures appearing on Respondent's Exhibit 18.

A. That is correct.

Mr. Mayer: Mr. Examiner, at this time we should like to offer into evidence Commission's Exhibits for identification 69, 70 and 71.

(1088) Mr. Barton: No objection.

Hearing Examiner Hier: Admitted.

(The documents heretofore marked Commission's Exhibits 69, 70 and 71 for identification, were received in evidence.)

Mr. Mayer: That is all we have of Mr. Gutting.

Hearing Examiner Hier: Cross examination?

Cross examination

Mr. Barton: I would like to have this marked as the next exhibit.

Hearing Examiner Hier: 179 is the Respondent's next exhibit.

Two pages?

Mr. Barton: Yes, Your Honor.

Hearing Examiner Hier: 179-A and B, a two-page document headed, "Griesedieck Bros. Package Beer Losses, (24 12-ounce equivalent cases) in St. Louis and St. Louis County, compared to losses outside."

(The document referred to was marked Respondent's Exhibit 179-A and B for identification.)

Ferd Gutting, for Commission—Redirect

By Mr. Barton:

Q. I show you Exhibit 179-A and B and ask you whether it isn't a fact that the figures that are contained on this (1089) exhibit conform to Exhibit 69, Commission Exhibit 69-A through D. Have you had an opportunity to check that?

A. I have had an opportunity to check several figures and they are correct.

Mr. Barton: If Your Honor please, I offer in evidence 179-A and B.

Mr. Mayer: No objection.

Hearing Examiner Hier: Admitted.

(The document heretofore marked Respondent's Exhibit 179-A and B for identification was received in evidence.)

Mr. Mayer: Now, may I ask the witness a question about this particular exhibit?

Hearing Examiner Hier: Yes.

Redirect examination by Mr. Mayer:

Q. Mr. Gutting, would you comment for me upon the comparisons made in Respondent's Exhibit 179-A and 179-B?

A. I have no comment to make regarding the actual number of cases involved in the exhibit, but the figure appearing behind "Percent of Loss" does not actually reflect the loss of business. The percentages shown merely reflect losses and they relate to each other and do not reflect the percent of loss of business.

Ferd Gutting, for Commission—Recross

(1090) Hearing Examiner Hier: What do you mean by losses as they reflect to each other? I don't understand that term.

The Witness: If you will notice, the percentages total horizontally to 100 per cent, and the figure under "St. Louis City and County", for example, is 27.7 per cent.

It merely means that the 132,593 case loss in St. Louis and St. Louis County represents 27.7 per cent of a total loss for the brewery of 477,135 cases.

Hearing Examiner Hier: All right.

Mr. Mayer: That is all we have.

Mr. Barton: I would like to ask one other question.

Recross examination by Mr. Barton:

Q. Mr. Gutting, I think you answered that Commission Exhibit 70 was a summary of all the information contained on Commission Exhibit 69-A through D. Isn't that right?

A. It is a summary of the information for the years 1953, 1954, and 1955.

(1091) Q. You did not mean to infer that it was a summary which took into consideration Commission Exhibit 69-A, which are the figures for 1952?

A. I did not.

Q. And why was the summary made up without taking into account the 1952 figures?

A. Frankly, there was no particular reason for it, it's just that I didn't know that 1952 was wanted on that particular sheet.

Mr. Barton: That is all.

Mr. Mayer: We have no further questions.

Hearing Examiner Hier: Thank you, Mr. Gutting.

A. D. Jones, for Commission—Direct

Mr. Mayer: Now, sir, at this time we should like to call Mr. A. D. Jones.

A. D. JONES was thereupon called as a witness for the Commission and, having been first duly sworn, testified as follows:

Direct examination by Mr. Mayer:

Q. Mr. Jones, will you give your full name, please, sir, to the reporter.

A. Allen D. Jones.

Q. And are you employed by the Federal Trade Commission, Mr. Jones?

A. I am.

(1092) Q. In what capacity?

A. As an accountant.

Q. How long have you been employed by the Commission in that capacity?

A. Twenty-one years.

Q. Now, Mr. Jones, at my request, did you prepare certain tabulations based upon the September 1955 survey conducted by Anheuser-Busch?

A. I did.

Mr. Mayer: At this time, Mr. Examiner, I should like to mark for identification as Commission's Exhibit for identification 72 a one-page document headed "Docket 6331, Anheuser-Busch, Inc. sale of 48 12-ounce cans to retailers."

I'm sorry. For No. 72 I would like to mark the Exhibit headed "Sale of 24 12-ounce bottles to retailers," a one-page document, and I would like to mark for Com-

A. D. Jones, for Commission—Direct

mission's Exhibit for identification 73 a one-page document headed "Sale of 48 12-ounce cans to retailers."

By Mr. Mayer:

Q. Now, Mr. Jones, directing your attention to exhibit marked Commission's Exhibit 72 for identification, sir, and selecting the name of the state, Wisconsin, appearing in the extreme left-hand column, sir, would you state column by column what the figures represent progressively across the page?

(1093) A. In the first column under "Number of Cities" appears the figure 7, which is the number of markets or cities sampled in which local or regional beers, the price of local or regional beers, equaled or exceeded the price of Budweiser beer.

The next column shown headed "Old Style" shows the figure 4 as representing that the price of old style beer in four markets was equal to or exceeded the price of Budweiser beer.

In the next column under the heading "Heilmans" appears the figure 4 which represents in four markets the price of Heilmans beer as being equal or exceeding the price of Budweiser.

And then we go over under the heading "Gettlemans," which shows that there were two markets of which the price of Gettlemans beer equaled or exceeded the price of Budweiser beer.

In the next column under "Grainbelt" that indicates that in one market the price of Grainbelt beer was equal to or greater than Budweiser beer.

And under the column headed "Thomas" it shows that in one market the price of Thomas beer was equal to or greater than the price of Budweiser beer.

A. D. Jones, for Commission—Director

And in the last column, "Total Number of Cities Sampled" that shows that there were 14 markets sampled in the State of Wisconsin.

(1094) Q. Now, sir, again with regard to Commission's Exhibit for identification 72, would you explain the entry near the bottom of the exhibit, "Total for Other 31 States."

A. There were 31 states—this is according to the market samples. There were 31 states in which there were no markets where local or regional beers—the price of regional or local beers equaled or exceeded the price of Budweiser, and in these 31 states there were 413 markets sampled.

Q. Now, Mr. Jones, would the same explanation that you have given for Commission's Exhibit for identification 72 apply to the entries appearing on Commission's Exhibit for identification 73?

A. Yes.

Mr. Mayer: Mr. Examiner, in preparing to offer Commission's Exhibit for identification 72 and 73, I should like to state that these two exhibits were drawn up at my request in order to point up what I think is a clear picture of the same basic data from which respondent's Exhibits 145 and 146 were taken. These exhibits represent all of the shipping points, with some exceptions which I shall enumerate later, surveyed by the respondent.

In making these exhibits and at my suggestion or direction there were several eliminations made, not of shipping points but of products. I have caused to be eliminated from Commission's Exhibits for identification 72 and 73 several (1095) entries concerning products

A. D. Jones, for Commission—Direct

which appear on Respondent's Exhibits 145 and 146. We have eliminated entries relating to Carling's ale. We have eliminated entries relating to Narragansett ale. We have eliminated entries with relation to Ballantine's ale. And we have also eliminated in every instance in which Ballantine's was not reported as either a beer or an ale.

Now, it will be recalled that Mr. Shine was not interested in separating the ales from the beers and, therefore, in his Exhibits 145 and 146 he threw them all into the same pot.

Now, we think it is more accurate in comparing prices to compare the prices of beers rather than to compare the prices of beer with ale. In other words, compare the price of beer with beer, the price of ale with ale.

Now, in these reports, Ballantine's was never demonstrated as a beer in the report. It was never priced equal to or equal or above Budweiser, and by the same token Ballantine's beer in the report was always priced, without exception, lower than when reported on the same form as Ballantine's ale.

Now, perhaps the two major eliminations have been the eliminations of Hamm's and Blatz. We have eliminated these two beers on the basis of one of the Respondent's Exhibits which is in this record as Respondent's Exhibit 152. To bring it to the Examiner's attention graphically, the Respondent's (1096) Exhibit 152 is headed as "Comparison of Blatz prices with Budweiser prices in local and regional prices." It shows that the number of markets mentioned were 120. It shows that in five of those markets in relation to the bottled beers there were no reports as to Blatz prices, so that we are really

A. D. Jones, for Commission—Direct

dealing with 115 markets mentioned with regard to the bottled.

By their own figures on this exhibit, Blatz is priced above local and regional beers in 108 of the points out of the 115 surveyed. It is our contention that that makes Blatz definitely and positively a premium priced beer, and, therefore, it should not be included in any exhibit in which it is attempted to compare the prices of Budweiser with the prices of local and regional beers.

Also, the tabulations of the Anheuser-Busch survey itself show that Hamm's is, practically speaking, in the identical situation. It is almost exactly the same as the information appearing on the Blatz exhibit. And in approximately one-half of the instances of reporting by Budweiser's own wholesalers, Hamm's was reported as a national shipping beer.

Hearing Examiner Hier: Are you contending in this case that these two beers you mentioned are national beers in defense of Budweiser, Schlitz, and Blatz?

Mr. Mayer: Yes, sir, they are premium priced beers.

Hearing Examiner Hier: Are you contending that they are nationally sold?

(1097) Mr. Mayer: They are sold in approximately 25 or 30 states, and I would call that fairly close to national distribution.

At this time, Mr. Chairman, we should like to offer in evidence Commission's Exhibits 72 and 73 for identification.

Mr. Barton: If your Honor please, I object. I would like to defer ruling until I have had an opportunity to cross-examine the witness.

A. D. Jones, for Commission—Cross

Hearing Examiner Hier: All right. We will hold it up until then.

Mr. Barton: Might I say that counsel's statement sounds like brief material rather than a matter of proof.

Are you through with your witness?

Mr. Mayer: He is entirely yours. I am entirely finished.

(1098) *Cross examination by Mr. Barton:*

Q. Mr. Jones, what was the objective in the preparation of exhibits 72 and 73?

Mr. Mayer: I object to that, with no question asked Mr. Jones of the objective of these exhibits nor what they purport to show. These exhibits were done at my direction and according to my statement.

Mr. Barton: Unfortunately I can't put you on the stand.

Mr. Mayer: You can ask plenty of questions about the accuracy of those figures. Since it comes from their books and records, we can argue about the exhibit, what the exhibit shows at any time.

Hearing Examiner Hier: Objection is overruled. Answer the question. What is the question?

(Question read by the reporter: Mr. Jones, what was the objective in the preparation of Exhibits 72 and 73?)

The Witness: I don't know what he means by objective. So far as I know, I was requested to make this tabulation to show data as contained in the headings of these exhibits.

A. D. Jones, for Commission—Cross

By Mr. Barton:

Q. Were you given any criterion to determine what regional and local beers were to be?

(1099) A. As marked on those survey sheets.

Q. Pardon?

A. As marked on the survey sheets.

Q. You mean you took—you included as regional beers all beers which were marked as regional beers on the survey sheets?

A. Well, let's take it the other way around. For instance, the beers which—there is Budweiser, Schlitz, Pabst, and Millers. I believe that is the four national beers.

Q. Yes.

A. As national beers, and the others were then either regional or local.

Q. All others besides those four were regional or local beers, is that right?

A. Well, that is the way they were marked on the sheets.

Q. Is that the way you—is that what you took in the preparation of these Exhibits 72 and 73 as the criterion for local and regional beers which are mentioned on that exhibit?

A. Well, with the elimination of Blatz, Hamm's and ales that were mentioned, Ballantine's, Carling's and Narragansett.

Q. Why did you eliminate Hamm's? What was the criterion you used to eliminate Hamm's as a regional beer despite the fact that it was the survey form as a regional beer?

A. I eliminated it per instructions of the attorney.

A. D. Jones, for Commission—Cross

Q. What was the basis of that instruction?

A. He just told me to eliminate it.

(1100) Q. You didn't make any independent determination to eliminate it based on some criterion as to whether or not it was a national or regional beer?

A. I told you, I said I made it up at the attorney's instruction on the basis of his instructions.

Q. Well, now, when you prepared this form, you have a legend down here saying the prices of local and regional beers were equal or greater than Budweiser in 43 of 723 cities sampled, or 5.95 per cent. Those are your words, aren't they?

A. That is right.

Q. Now, what did you mean when you said local and regional beers?

A. I mean just what I said, with the exception of the beers as marked regional and local, with the exception of Blatz and Hamm's, Ballantine ale, Carling's and Nar-ragansett ale.

Q. Did you go through and find out how many states Hamm's was marketed in the examination of this survey?

A. I think so.

Q. And in the course of your preparation of the survey, you included Hamm's at one time as one of the beers to compare Budweiser against, didn't you?

Mr. Mayer: I object to that.

Mr. Barton: Wait a moment, please.

Mr. Mayer: He is bound by what the exhibit is.
(1101) What he discarded two years ago has nothing to do with what the exhibit offers.

Hearing Examiner Hier: What is the point?

A. D. Jones, for Commission—Cross

Mr. Barton: I want to show they have made up the tabulation based on including Hamm's in here and then when it came out with too many areas, that Hamm's was the same price in, they threw that out and got it winnowed down to something that apparently on its face would support Mr. Mayer's point.

Mr. Mayer: I have admitted that.

Hearing Examiner Hier: There is nothing new about that, Mr. Barton. I very rarely get a purely objective exhibit from counsel, you know that.

Mr. Barton: Your Honor, I submit ours have been objective. The facts are there.

Hearing Examiner Hier: Counsel admits you are kicking a dead horse around. Let's go to something else.

Mr. Barton: The thing that bothers me, if this is admitted into evidence, I have to offer into evidence the survey forms themselves, all 700 of them, because it is my contention that this exhibit is misleading and does not properly represent the survey forms themselves because of the matter of definition of what is a regional or local beer.

Moreover, there is a question of what is the significance of this language contained on the exhibit, equal to or greater than prices of Budweiser.

(1102) Hearing Examiner Hier: You mean to say that I cannot take respondent's Exhibits 145 and 146 and 152 and compare them with these two presently tendered exhibits?

Mr. Barton: I'm afraid you can't.

Hearing Examiner Hier: And do you further mean to say that you two gentlemen by such comparisons can't present your respective side of the picture more clearly?

A. D. Jones, for Commission—Cross

Mr. Barton: I'm afraid you can't because what 145 and 146 are, they are charts, tabulations, based upon selection on a purely representative sample basis, the largest market in the states, and then the first two alphabetically, without designation of the particular brand which is the regional or local in each case.

In other words, it is the high regional.

Now, we submit to Your Honor that a further important point is that a survey which merely describes, which merely compares those beers which are equal to or greater is entirely misleading because the fact is that in large numbers of areas, in the Midwest, Hamm's and Coors are sold to the retail at prices that are, say, five, six, ten, fifteen cents differential with Budweiser. But when it gets into the consumer market, the price is the same.

And incidentally, Coors is eleven ounces as against twelve ounces, so even on the basis of comparing the price per ounce, the Coors price in those cases is higher. But in the (1103) preparation of this exhibit Coors was included only where the price was the same or in excess even though the differential might only have been accounted for by the fact that one was eleven ounce and the other twelve ounce, or that the differential was not substantial enough to have any effect in the consumer market over the bar or off-premise.

(1104) Hearing Examiner Hier: You can point all that out in your briefs, in your posed findings, can you not?

Mr. Barton: I don't think so, based upon the evidence, because we won't have in evidence the actual exhibits, the actual survey forms. If this goes in evidence

A. D. Jones, for Commission—Cross

then an argument can be made by counsel that this is the fact and I will have no basis for referring to anything in the record which will establish the points which I am making now.

Mr. Mayer: May I be heard, Mr. Examiner?

Hearing Examiner Hier: Yes, sir.

Mr. Mayer: First of all, his comments were with relation, as I understand him, to consumer prices. He has an exhibit in here as long as a roll of wall paper with consumer prices. These Exhibits do not intend to reflect consumer prices. They don't mention consumer prices. They are directed only to retailer prices and I can't make any franker explanation about what has been eliminated from the particular reports which he received and the drawing up of these Exhibits.

He evidently is not questioning the accuracy. He is merely questioning the elimination of them.

Hearing Examiner Hier: The completeness.

Mr. Barton: That is right.

Mr. Mayer: His own Exhibit doesn't show all the (1105) shipping points.

Hearing Examiner Hier: You know the lack of completeness is not a cause of rejection for any Exhibit unless the lack is so gross that then it becomes incomprehensible or is grossly misleading.

Mr. Barton: That is our contention, that it is grossly misleading.

Hearing Examiner Hier: I don't think any of us are going to be misled to that extent with the statistics end of the material that is in the record here.

Mr. Barton: I am not concerned that you may be misled. You have heard it. You have seen all the wit-

A. D. Jones, for Commission—Cross

nesses testify. You have seen the survey forms, or at least have seen references to them and what they are. Whereas, when this matter gets before a body when they are looking at a record alone, that information won't be available and I am concerned that a grossly misleading Exhibit should be introduced in this record by counsel to which he will constantly refer, not perhaps before you, Your Honor, but later, and we will have no basis for it being grossly misleading.

Hearing Examiner Hier: Well, so long as it is accurate, if you want to attack its accuracy, you go ahead, but so long as it is accurate, I will admit it, and you may admit in contradiction thereof, or further explanation or modification or anything else you want an equally misleading Exhibit.

(1106) Mr. Mayer: He has already done that.

(The documents heretofore marked Commission's Exhibits 72 and 73 for identification were received in evidence.)

Mr. Barton: I think Mr. Mayer said that the basis for elimination of Hamms is that Hamms was listed as a national on the reports from the wholesaler, is that right?

Mr. Mayer: No, sir. I said in many instances, approximating 50 per cent, the wholesaler, himself, reported it as national and Mr. Schine or his assistants changed it to regional.

Mr. Barton: I would like the witness to look at the survey forms from the State of Minnesota and tell us how Hamms is listed by the wholesaler.

Hearing Examiner Hier: Are those in evidence?

A. D. Jones, for Commission—Cross

Mr. Barton: No.

Hearing Examiner Hier: You can't have the witness talking about a paper not in evidence. You will either have to mark it for identification, or offer it, or do both. His replies will be unintelligible, not only at that level, but above.

Mr. Barton: I ask that the folder for Minnesota and the papers in it be marked as the next Exhibit.

Hearing Examiner Hier: Let's see how we can do this. I guess you are going to have to give each one of these a separate letter.

(1107) Mr. Mayer: Mr. Examiner, may I suggest that we are beyond the scope here. Hasn't this witness already answered that there were exclusions made at my direction?

Mr. Barton: Your Honor, I submit he can't cut me off from cross-examination by testifying himself.

Mr. Mayer: I am not attempting to. I merely want him to follow the regular lines of examination.

Hearing Examiner Hier: He uses this in the Exhibit, Mr. Mayer, the phrases local, regional and national, perhaps not national, but certainly local and regional. Counsel is entitled to an explanation from the witness in what sense he is using those two terms, why this was left out and why that was put in, in addition to your explanation.

Mr. Mayer: I think he already answered that on one of the first questions on cross examination.

Hearing Examiner Hier: I don't agree.

Have you got any more of these to mark?

Mr. Barton: Yes, Your Honor.

Hearing Examiner Hier: Well, you might as well go out in the hall and smoke while I get busy.

A. D. Jones, for Commission—Cross

(A recess was taken.)

Hearing Examiner Hier: Back on the record.

There has been marked for identification Respondent's Exhibits 180-A through K, the pricing survey sheets which form the basic material from which Respondents' Exhibits 145 and (1108) 146 were compiled for the State of Alabama.

181-A through J is the same material for the State of Arizona.

182-A through O is the same material for the State of Arkansas.

183-A through FF—that is misnumbered but we will have to let it go—is the same material for the State of California.

184-A through G is the same material for the State of Colorado.

185-A through D for the State of Connecticut.

186 for the State of Delaware.

187-A through N for the State of Florida.

188-A through M for the State of Georgia.

189-A through M for the State of Idaho.

190-A through Z-19 for the State of Illinois.

191-A through Z-24 for the State of Indiana.

192-A through T for the State of Iowa.

193-A through T for the State of Kansas.

194-A through N for the State of Kentucky.

195-A through H for the State of Louisiana.

196-A through D for the State of Maine.

197-A through J for the State of Maryland.

198-A through I for the State of Massachusetts.

199-A through Z-2 for the State of Michigan.

(1109) 200-A through K for the State of Minnesota.

A. D. Jones, for Commission—Cross

- 201-A through K for the State of Mississippi.
 - 202-A through Z-2 for the State of Missouri.
 - 203-A through N for the State of Montana.
 - 204-A through K for the State of Nebraska.
 - 205-A through F for the State of New Hampshire.
 - 206-A through G for the State of New Jersey.
 - 207-A through H for the State of Nevada.
 - 208-A through C for the State of New Mexico.
 - 209-A through Z-11 for the State of New York.
 - 210-A through O for the State of North Carolina.
 - 211-A through F for the State of North Dakota.
 - 212-A through Z-3 for the State of Ohio.
 - 213-A through T for the State of Oklahoma.
 - 214-A through N for the State of Oregon.
 - 215-A through Z-13 for the State of Pennsylvania.
 - 216 for Rhode Island.
 - 217-A through J for the State of South Carolina.
 - 218-A through D for South Dakota.
 - 219-A through K for Tennessee.
 - 220-A through Z-8 for Texas.
 - 221-A through D for Utah.
 - 222-A and B for Vermont.
 - 223-A through Q for Virginia.
 - 224-A through K for the State of Washington.
 - (1110) 225-A through P for the State of West Virginia.
 - 226-A through N for the State of Wisconsin.
 - 227-A through F for the State of Wyoming.
 - 228-A through D for Hawaii.
- It sounds like a political convention roll call.
- Mr. Barton: Your Honor, I offer in evidence —

A. D. Jones, for Commission—Cross

Hearing Examiner Hier: Wait a minute, you can't do that, yet. You have to finish cross examining him. You can use these for cross examination because they have been identified.

Cross Examination by Mr. Barton:

Q. I show you Respondent's Exhibits 180-A through K through Respondent's Exhibits 228-A through D for identification and ask you whether these are the survey forms from which you prepared the partial summary which has been identified as Commission's Exhibits 72 and 73.

A. They are.

Mr. Barton: Your Honor, I offer in evidence Respondent's Exhibits 180-A through 228-D.

Hearing Examiner Hier: I want to ask a question. How did he use those in the preparation of that material if they were not already in the record? I understood that he used Respondent's Exhibits 145 and 146 and 152.

Mr. Barton: We did not place these in the records (1111) originally, but Mr. Mayer asked that they be sent to him which was the arrangement under which 145 and 146 were admitted in the record.

Mr. Mayer: Basic material of their Exhibits was submitted to me and I instructed the man to make these tabulations from the basic material.

Hearing Examiner Hier: I take it if this is the material from which this tabulation is made, you can't possibly have any objection.

Mr. Mayer: That's right.

Hearing Examiner Hier: Very well.

180-A through 228-D are admitted in evidence.

A. D. Jones, for Commission—Cross

(The documents heretofore marked Respondent's Exhibits 180 through 228-D for identification were received in evidence.)

Mr. Barton: That is all I have for this witness.

Mr. Mayer: That is all we have.

Hearing Examiner Hier: All right, Mr. Jones, you are excused. Thank you.

(Witness excused.)

Hearing Examiner Hier: What is next?

Mr. Barton: The only other thing is the offering in evidence, Your Honor, of some statistics which bring up to date some of those which went into evidence earlier, and it is only a very few, and I have shown them to Mr. Mayer.

(1112) First, I would like to have marked —

Hearing Examiner Hier: 229.

Mr. Barton: Can we go off the record?

Hearing Examiner Hier: Yes. Off the record.

(Discussion off the record.)

Hearing Examiner Hier: On the record.

Respondent's Exhibit 229 for identification is the recap of Anheuser Busch beer sales 1941 to 1955.

Mr. Mayer: 229?

Hearing Examiner Hier: That is right.

230-A through D is a four-page report of sales of leading breweries from repeal through 1955.

231-A and B is a list of sales by months, 1953, 1954, 1955, and 1956, of Anheuser Busch, Falstaff, Griesedieck Bros., Griesedieck Western, Columbia, Hyde Park and whatever is included in "all others", together with totals in St. Louis and St. Louis County.

Colloquy

232 is St. Louis and St. Louis County package beer versus Company total, 1944 through 1954.

Mr. Barton: Let's change the heading because it actually is 1955.

Hearing Examiner Hier: All right.

What do you mean by "company total" in this thing? Do you mean Anheuser Busch?

Mr. Barton: No. Falstaff, Griesedieck Bros., and (1113) Griesedieck Western.

233 is Falstaff Annual Report for 1955.

Hearing Examiner Hier: 233 is the Annual Report of the Falstaff Brewing Corporation for 1955.

234 is a graph of package beer sales in St. Louis, city and county, for the four breweries, Anheuser Busch, Griesedieck Bros., Falstaff and Griesedieck Western.

Mr. Barton: Your Honor, I might state that Respondent's Exhibit 234 brings up to date Respondent's Exhibit 117 which is in the record.

Respondent's Exhibit 233 the Falstaff Annual Report takes in the whole year 1955, whereas Respondent's Exhibits 36 and 37 covered the first two quarters of 1955.

Exhibit 232 brings up to date Respondent's Exhibit 21.

Respondent's Exhibit 230-A and B brings up to date Respondent's Exhibit 18.

Respondent's Exhibit 230-A through D brings up to date Respondent's Exhibit 5.

And Respondent's Exhibit 229 brings up to date Respondent's Exhibit 2.

I offer in evidence Respondent's Exhibits 229 through 234.

Mr. Mayer: I have no objection, Mr. Examiner, on the relevancy of these documents. I have had no oppor-

Colloquy

tunity (1114) to check them, but if you will bear with me just a moment, I see a discrepancy here when they had the keeper of the books of Griesedieck Bros. Brewery on the witness stand, in which his records for 1954, for instance, show a total company barrels of 656,000 barrels but Budweiser, as it prepared this Exhibit, used the figure 643,000 barrels.

Mr. Barton: That is a very small difference and I — I will concede for the record that any variation between the Exhibits so far as Griesedieck Bros. are concerned, where there is in evidence figures prepared and submitted by Griesedieck Bros. Company, their figures are the accurate figures and I think that in this case it is a matter of 10,000 barrels which might be a year end —

Mr. Mayer: I have no further objection, Mr. Examiner.

Hearing Examiner Hier: All right.

229 through 234 will be admitted in evidence.

(The documents heretofore marked Respondent's Exhibits 229 through 234 for identification were received in evidence.)

Hearing Examiner Hier: Do you have any more proof?

Mr. Mayer: No, sir.

Hearing Examiner Hier: Do you?

Mr. Barton: No, Your Honor.

Hearing Examiner Hier: This case is finally closed.

Mr. Barton: Very expeditiously, I think.

(1115) Hearing Examiner Hier: I would not say that.

How much time do you gentlemen want for proposed findings?

Colloquy

Mr. Barton: Well, if I understand the procedure, am I correct that the Commission counsel will file his findings and then we will —

Hearing Examiner Hier: That isn't the usual procedure, but that is the procedure I will follow. So I will ask you, Mr. Mayer, in this case — in most cases I don't but in a case of this type, yes, how much time do you want for proposed findings and a brief, Mr. Mayer? I want both, separately.

Mr. Mayer: Well, sir, as you know, there is a mountain of statistical evidence here. But I should assume I could get both the findings and the brief in a period of six or eight weeks.

Hearing Examiner Hier: July 1?

Mr. Mayer: I would appreciate the other two weeks.

(1116) Hearing Examiner Hier: This case is already a year old.

Mr. Mayer: I realize that.

Hearing Examiner Hier: Mr. Barton, how much time will you want if I give him eight weeks?

Mr. Barton: It would be a minimum of 45 days thereafter.

Hearing Examiner Hier: He wants eight, and you want six.

Let's go off the record a minute.

(Discussion off the record.)

Hearing Examiner Hier: On the record.

Commission counsel will file on or before July 9 a set of proposed findings in accordance with the rules. I also want from Commission counsel on or before that date a brief. In that brief I want certain points covered.

Colloquy

First of all, I want the discrimination pointed out, what you claim is the discrimination.

Secondly, I want this question of meeting competition briefed at least from a factual standpoint. I am fairly familiar with the cases on it but at least from a factual standpoint.

That is all I will say about that now.

Respondent's counsel will file their proposed findings and brief, separate documents, on or before August 20, (1117) and I want that brief to cover certain points also.

Except for the gratuitous or, at any rate, the remark in the General Foods opinion by the Commission, I want to know what judicial or other authority there is for this defense of testing the market to a price discrimination case.

I would like to have also what I choose to regard as the judicial amendment, Section 2(b), by the Supreme Court in the Standard Oil case, to wit, that competitive prices claimed to have been met must be shown to be legal prices before the defense is made out, or lawful prices I think the phrase is.

I would like to have that question discussed.

Another thing that I am interested in from the respondent is this. If it is necessary to meet competition to survive, then why the experiment only and a return to the former price? I have doubts that that would be considered to be good faith. I am not satisfied in my own mind that it was compellingly necessary, and I am far from satisfied that one area only can be selected for that purpose. The reasons given for the selection of the St. Louis area, some of them are cogent and plausible,

Colloquy

but I am not satisfied that the law permits that by any means.

I guess that about covers what I have in mind now. Undoubtedly when I get to looking into the case, a lot of other points will arise, but that is what I have in mind now.

(1118) Mr. Mayer: May we go off the record a moment?

Hearing Examiner Hier: Off the record.

(Discussion off the record.)

Hearing Examiner Hier: On the record.

Anything else?

Mr. Mayer: No, sir.

Mr. Barton: No, sir.

Hearing Examiner Hier: All right, gentlemen, that is the end of the beer.

(Whereupon, at 12:30 o'clock p.m., the hearing was adjourned.)

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Commission's Exhibit 2

(432)

1953 SALES OF THE 35 LEADING BREWERIES

	<i>In Barrels</i>
1. BUDWEISER (2 plants)	6,711,222
2. Jos. Schlitz Brewing Co. (2 plants)	5,255,000
3. Pabst Brewing Co. (4 plants)	4,250,000
4. P. Ballantine & Sons	3,882,000
5. Liebmann Breweries, Inc. (3 plants)	3,100,000
6. Falstaff Brewing Corp. (4 plants)	2,911,393
7. F. & M. Schaefer Brewing Co. (2 plants)	2,600,000
8. Miller Brewing Co.	2,083,418
9. Jacob Ruppert (2 plants)	2,004,975
10. Lucky Lager Brewing Co. (3 plants)	1,739,930
11. Theo. Hamm Brewing Co.	1,685,795
12. Goebel Brewing Co. (4 plants)	1,579,826
13. Griesedieck Western Brewery Co. (2 plants)	1,483,631
14. Pfeiffer Brewing Co. (2 plants)	1,441,600
15. Drewrys Ltd. U. S. A. Inc. (3 plants)	1,420,230
16. Piel Bros. (2 plants)	1,375,000
17. C. Schmidt & Sons	1,373,839
18. Stroh Brewing Co.	1,145,044
19. Carling Brewing Co.	1,096,025
20. San Francisco Brewing Corp.	1,017,997
21. Blatz Brewing Co.	998,965
22. Jackson Brewing Co.	934,000
23. Duquesne Brewing Co.	923,320
24. National Brewing Co. of Baltimore	840,000
25. Genessee Brewing Co.	815,000
26. Adolph Coors Co.	812,000
27. Gunther Brewing Co.	800,000

*Commission's Exhibit 2***1953 SALES OF THE 35 LEADING BREWERIES**

	<i>In Barrels</i>
28. Geo. Wiedemann Brewing Co.	780,000
29. Griesedieck Bros. Brewery Co.	778,142
30. Pearl Brewing Co.	770,121
31. Olympia Brewing Co.	764,800
32. Narragansett Brewing Co.	721,000
33. Pittsburgh Brewing Co.	648,063
34. G. Krueger Brewing Co.	625,387
35. Red Top Brewing Co.	625,000

Reprinted From

BEER DISTRIBUTOR Magazine

March, 1954

Commission's Exhibit 3

(433)

1953 SALES STANDINGS OF BREWERIES**SELLING OVER 100,000 BARRELS**

We are pleased to present our annual compilation showing the total sales of fermented malt beverages during the latest calendar year by various United States brewing companies whose individual sales were above 100,000 barrels for the year.

As is well known, and as we have repeatedly pointed out in the past, individual brewery figures are not available from the federal government. Likewise, with just a few exceptions, the states do not make such figures available.

The figures presented herewith were obtained from various sources that we consider reliable, in a great many instances from the breweries themselves. However, we cannot guarantee that any or all of the figures are correct; nor do we assume any responsibility for their accuracy.

Data for breweries in the 100,000 barrel and over class which are missing from this compilation were not available to us at the time of going to press.

1953 SALES OF BREWING COMPANIES

(In terms of barrels of 31 gallons each)

Anheuser-Busch, Inc. (2 plants)	6,711,222
Jos. Schlitz Brewing Co. (2 plants)	5,255,000
Pabst Brewing Co. (4 plants)	4,250,000
P. Ballantine & Sons	3,882,000
Liebmann Breweries, Inc. (3 plants*)	3,100,000
Falstaff Brewing Corp. (4 plants)	2,911,393
F. & M. Schaefer Brewing Co. (2 plants).....	2,600,000

Commission's Exhibit 3

Miller Brewing Co.	2,083,418
Jacob Ruppert (2 plants**)	2,004,975
Lucky Lager Brewing Co. (3 plants)	1,739,930
Theo. Hamm Brewing Co.	1,685,795
Goebel Brewing Co. (4 plants)	1,579,826
Griesedieck Western Brewery Co. (2 plants)....	1,483,631
Pfeiffer Brewing Co. (2 plants)	1,441,600
Drewrys Ltd. U. S. A., Inc. (3 plants)	1,420,230
Piel Bros. (2 plants)	1,375,000
C. Schmidt & Sons	1,373,839
Stroh Brewing Co.	1,145,044
Carling Brewing Co.	1,096,025
San Francisco Brewing Corp.	1,017,997
Blatz Brewing Co.	998,965
Jackson Brewing Co.	934,000
Duquesne Brewing Co.	923,320
National Brewing Co. of Baltimore	840,000
Genessee Brewing Co.	815,000
Adolph Coors Co.	812,000
Gunther Brewing Co.	800,000
Geo. Wiedemann Brewing Co.	780,000
Griesedieck Bros. Brewery Co.	778,142
Pearl Brewing Co.	770,121
Olympia Brewing Co.	764,800
Narragansett Brewing Co.	721,000
Pittsburgh Brewing Co.	648,063
G. Krueger Brewing Co.	625,387
Rep Top Brewing Co.	625,000
Minneapolis Brewing Co.	615,000
Regal Amber Brewing Co.	601,406

Commission's Exhibit 3

Lone Star Brewing Co.	576,978
M. K. Goetz Brewing Co. (2 plants)	573,445
G. Heileman Brewing Co.	500,475
Fort Pitt Brewing Co. (2 plants)	500,001
Sterling Brewers, Inc.	486,000
Adam Scheidt Brewing Co.	477,566
Henry F. Ortlieb Brewery Co.	474,560
Heidelberg Brewing Co.	473,000
Jacob Schmidt Brewing Co.	432,187
Peter Hand Brewery Co.	430,512
Iroquois Beverage Corp.	428,119
Stegmaier Brewing Co.	421,722
Acme Breweries (2 plants)	398,028
West End Brewing Co.	386,760
Frankenmuth Brewing Co.	370,901
Storz Brewing Co.	327,419
Altes Brewing Co. (2 plants***)	323,665
Maier Brewing Co.	321,619
Erie Brewing Co.	280,112
Esslinger's, Inc.	278,563
Gulf Brewing Co.	271,618
Harvard Brewing Co.	254,664
E & B Brewing Co.	250,243
Fitzgerald Bros. Brewing Co.	231,000
Canadian Ace Brewing Co.	226,589
Galveston-Houston Breweries, Inc.	222,736
Peter Fox Brewing Co.	207,555
Arizona Brewing Co.	200,098
Geo. Muehlebach Brewing Co.	192,825
Lion, Inc.—Gibbons Brewery	186,161
William Gretz Brewing Co.	184,494

Commission's Exhibit 3

Haffenreffer & Co.	184,294
Standard Brewing Co., Inc., Rochester	175,416
Hampden Brewing Co.	167,205
Atlantic Brewing Co.	163,547
Charles D. Kaier Co.	160,617
Metropolis Brewery of New Jersey, Inc.	160,000
Dawson's Brewery, Inc.	156,907
Dobler Brewing Co.	156,000
Haberle Congress Brewing Co.	152,000
Dixie Brewing Co.	144,203
Fox Head Brewing Co.	137,616
William Simon Brewery	134,000
Old Reading Brewery, Inc.	130,649
Camden County Beverage Co.	116,257
Sunshine Brewing Co.	115,342
Kingsbury Breweries Co.	107,497
Du Bois Brewing Co.	106,434
Pilsen Brewing Co.	103,033
D. G. Yuengling & Son	102,991
Louis F. Neuweiler' Sons	102,453
Fred Koch Brewery, Inc.	100,000

* Does not include Acme Breweries, acquired by Liebmann in December, 1953.

** Includes Norfolk, Va., plant until sold in 1953.

*** Includes San Diego, Calif., plant until operations discontinued on February 15, 1953.

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Commission's Exhibit 5

436)

ST. LOUIS BRANCH
PRICE TO RETAILERS (NET)

	12/31/53	1/4/54	6/21/54	7/14/54
Bottles				
24/12 oz Ret. Reg.	2.93	2.68	2.35	
24/12 oz N.R. Reg.	3.29	3.16	2.81	
24/12 oz N.R. 4/6	3.29	3.16	2.83	
12/32 oz Ret. Reg.	3.41	3.41	2.96	
12/32 oz N.R. Reg.	3.80	3.65	3.11	
12/32 oz N.R. 6/2				
36/7 oz Ret.	2.90	2.75	2.60	2.30
Cans				
12/12 oz	1.67	1.60	1.51	
48/12 oz 8/6	6.68	6.40	6.08	
24/12 oz Reg.	3.34	3.20	2.99	
48/12 oz 4/12				
Braught				
Budweiser ½ bbls	12.98	12.98	12.48	
Michelob ½ bbls	13.98	13.98	13.98	

Commission's Exhibit 6

(437)

CHICAGO

PRICE TO RETAILERS (NET)

	<i>Pre Oct</i>	<i>Post Oct</i>	<i>Present</i> 9/2/54	<i>Temporary</i> 10/54
<i>Bottles</i>				
24/12 oz Ret. Reg.	3.24	3.44	S	
24/12 oz N.R. Reg.	3.59	3.82		
24/12 oz N.R. 4/6	3.67	3.85	A	
12/32 oz Ret. Reg.	3.96	4.17		
12/32 oz N.R. Reg.	4.15	4.35	M	
12/32 oz N.R. 6/2		4.40		4.35
36/7 oz Ret.	3.05	3.23	E	
<i>Cans</i>				
12/12 oz		1.90		
48/12 oz 8/6	7.26	7.65		
24/12 oz Reg.	3.63	3.80		
48/12 oz. 4/12				
<i>Draught</i>				
Budweiser ½ bbls	14.39	15.20		
Michelob ½ bbls	15.56	16.40		

Commission's Exhibit 7

(438)

CINCINNATI BRANCH
PRICES TO RETAILERS (NET)

	<i>Pre Oct</i>	<i>Post Oct</i> 10/8/53	<i>Present</i> 5/4/54
--	----------------	----------------------------	--------------------------

Bottles

24/12 oz Ret. Reg.	3.55	3.75	S
24/12 oz N.R. Reg.	3.89	4.10	
24/12 oz N.R. 4/6	3.89	4.17	A
12/32 oz Ret. Reg.	4.35	4.55	
12/32 oz N.R. Reg.		4.70	M
12/32 oz N.R. 6/2		4.70	
36/7 oz Ret.			E

Cans

12/12 oz	1.90	2.04	
48/12 oz 8/6	7.58	8.14	
24/12 oz Reg.	3.79	4.07	
48/12 oz 4/12			

Draught

Budweiser ½ bbls	14.60	15.35	
Michelob ½ bbls	15.80	16.50	

Commission's Exhibit 8

(439)

HOUSTON BRANCH
PRICE TO RETAILER (NET)

	<i>Pre Oct</i> 1953	Oct 8/53	9/1/54
<i>Bottles</i>			
24/12 oz Ret. Reg.	3.43	3.70	3.75
24/12 oz N.R. Reg.	3.71	3.95	4.00
24/12 oz N.R. 4/6	3.77	4.01	4.06
12/32 oz Ret. Reg.	4.01	4.20	4.26
12/32 oz N.R. Reg.	4.29	4.60	4.66
12/32 oz N.R. 6/2	4.40	4.70	4.76
36/7 oz Ret.			
<i>Cans</i>			
12/12 oz	1.855	1.975	
48/12 oz 8/6	7.42	7.90	8.00
24/12 oz Reg.	3.71	3.95	4.00
48/12 oz 4/12			
<i>Draught</i>			
Budweiser ½ bbls	15.35	16.00	16.35
Michelob ½ bbls	16.50	17.00	17.35

Commission's Exhibit 9

40)

BRONX, MANHATTAN, WESTBURY

PRICES TO RETAILER (NET)

	<i>Pre Oct</i>	<i>Post Oct</i>	<i>5/17/54</i>
<i>Bottles</i>			
24/12 oz Ret. Reg	3.52	3.68	3.68
24/12 oz N.R. Reg.	3.74	3.92	3.92
24/12 oz N.R. 4/6	3.74	3.92	3.92
12/32 oz Ret. Reg.			
12/32 oz N.R. Reg.	4.32	4.52	4.52
12/32 oz N.R. 6/2		4.52	4.52
36/7 oz Ret.	3.40	3.56	3.56

<i>Cans</i>			
12/12 oz		1.97	1.97
48/12 oz 8/6	7.48	7.84	7.84
24/12 oz Reg.	3.74	3.92	3.92
48/12 oz 4/12			

7.84

<i>Brought</i>			
Budweiser ½ bbls	14.23	14.98	14.48
Michelob ½ bbls	16.25	16.85	16.85

Note: 10¢	Note: 10¢	Note: Quantity
per case	per case	discounts as
off on	off on	follows
quantities	quantities	Cases
of 275 &	of 275 &	1- 4
over—	over—	5-14
1 drop	1 drop	15-24
		25-49
		50-99
		100-over
		50¢ per ½
		Budweiser—5 or
		more halves

Commission's Exhibit 10

(441)

KEARNY BRANCH

PRICES TO RETAILERS (NET)

	Pre Oct	Post Oct	5/3/54	5/17/54	Not Verif
<i>Bottles</i>					
24/12 oz Ret. Reg.	3.52	3.68	3.68		
24/12 oz N.R. Reg.	3.74	3.92	3.92		
24/12 oz N.R. 4/6	3.74	3.92	3.92		
12/32 oz Ret. Reg.					
12/32 oz N.R. Reg.	4.32	4.52	4.52		
12/32 oz N.R. 6/2	4.32	4.52	4.52		
36/7 oz Ret.	3.40	3.56	3.56		
<i>Cans</i>					
12/12 oz	1.87	1.97	1.97		
48/12 oz 8/6	7.48	7.84	7.84		
24/12 oz Reg.	3.74	3.92	3.92		
48/12 oz 4/12					7.84
<i>Draught</i>					
Budweiser 1/2 bbls	14.23	14.98	14.98	14.48	
Michelob 1/2 bbls	16.25	16.85	16.85		
Note: 50¢ per 1/2 or 2 or more Quantity discounts on pkg. beer as follows:					
	quan	disc			
	1- 4	None			
	5-14	.10			
	15-24	.12			
	25-49	.15			
	50-99	.20			
	100-over	.25			

Commission's Exhibit 11

42)

ST. JOSEPH BRANCH
PRICE TO RETAILER (NET)

	<i>Pre-Oct</i>	<i>Post-Oct</i>	<i>11/5/53</i>	<i>4/30/54</i>	<i>8/31/54</i>
<i>bottles</i>					
24/12 oz Ret. Reg.	3.17				
24/12 oz N.R. Reg.	3.49	S	A	M	E
24/12 oz N.R. 4/6	3.49				
12/32 oz Ret. Reg.		3.69			
12/32 oz N.R. Reg.	4.06				
12/32 oz N.R. 6/2					
36/7 oz Ret.	3.10	S	A	M	E
<i>cases</i>					
12/12 oz	1.75				
48/12 oz 8/6	6.98				
24/12 oz Reg.	3.49				
48/12 oz 4/12					
<i>draught</i>					
Budweiser ½ bbls	13.40	12.00	13.40	12.00	13.25
Michelob ½ bbls	14.60	14.60	14.60	14.60	14.60

Commission's Exhibit 12

(443)

BUFFALO BRANCH
PRICES TO RETAILERS (NET)

	<i>Pre Oct</i>	<i>Post Oct</i>	<i>Present</i>
Bottles			
24/12 oz Ret. Reg.	3.40	3.60	No
24/12 oz N.R. Reg.	3.55	3.80	
24/12 oz N.R. 4/6	3.55	3.80	Report
12/32 oz Ret. Reg.			
12/32 oz N.R. Reg.	4.21	4.41	
12/32 oz N.R. 6/2		4.41	
36/7 oz Ret.	3.36	3.56	
Cans			
12/12 oz			
48/12 oz 8/6	7.08	7.60	
24/12 oz Reg.	3.54	3.80	
48/12 oz 4/12			7.60
Draught			
Budweiser ½ bbls	13.75	14.50	
Michelob ½ bbls	14.90	15.50	

Commission's Exhibit 13

BALTIMORE BRANCH
PRICES TO RETAILERS (NET)

	<i>Pre Oct</i>	<i>Post Oct</i>	<i>Present 5/17/54</i>
<i>bottles</i>			
24/12 oz Ret. Reg.	3.45	3.62	S
24/12 oz N.R. Reg.	3.70	3.90	
24/12 oz N.R. 4/6	3.70	3.90	A
12/32 oz Ret. Reg.			
12/32 oz N.R. Reg.	4.28	4.50	M
12/32 oz N.R. 6/2	4.28	4.50	
36/7 oz Ret.	3.40	3.51	E
<i>ms</i>			
12/12 oz	1.85	1.95	
18/12 oz 8/6	7.40	7.80	
24/12 oz Reg.	3.70	3.90	
18/12 oz 4/12			7.80
<i>taught</i>			
Budweiser 1/2 bbls	14.55	15.15	
Michelob 1/2 bbls	16.13	16.58	

Commission's Exhibit 14

(445)

WASHINGTON BRANCH
PRICES TO RETAILERS (NET)

	<i>Pre Oct</i>	<i>Post Oct</i>	<i>5/20/54</i>
Bottles			
24/12 oz Ret. Reg.	3.45	3.65	3.67
24/12 oz N.R. Reg.	3.66	3.85	3.87
24/12 oz N.R. 4/6	3.66	3.85	3.87
12/32 oz Ret. Reg.			
12/32 oz N.R. Reg.	4.29	4.50	4.52
12/32 oz N.R. 6/2	4.29	4.50	4.52
36/7 oz Ret.	3.45	3.65	3.67
Cans			
12/12 oz	1.83	1.94	1.935
48/12 oz 8/6	7.32	7.70	7.74
24/12 oz Reg.	3.66	3.85	3.87
48/12 oz 4/12			7.74
Draught			
Budweiser ½ bbls	14.46	15.06	15.06
Michelob ½ bbls	15.92	16.37	16.37

Commission's Exhibit 15

446)

DETROIT BRANCH
PRICES TO RETAILERS (NET)

	<i>Pre Oct</i>	<i>Post Oct 10/8/53</i>	<i>Present 4/30/54</i>	
Bottles				
24/12 oz Ret. Reg.	3.35	3.55	S	
24/12 oz N.R. Reg.				
24/12 oz N.R. 4/6	3.65		A	3.85
12/32 oz Ret. Reg.	4.06	4.30		
12/32 oz N.R. Reg.	4.21		M	
12/32 oz N.R. 6/2		4.45		
36/7 oz Ret.	3.24	3.50	E	
Cans				
12/12 oz		1.925		
48/12 oz 8/6	7.34	7.70		
24/12 oz Reg.	3.67	3.85		
48/12 oz 4/12				
Braught				
Budweiser ½ bbls	14.43	15.10		
Michelob ½ bbls	15.68	16.35		

Commission's Exhibit 16

(447)

BOSTON BRANCH
PRICES TO RETAILERS (NET)

	<i>Pre Oct</i> 1953	<i>Post Oct</i> 1953	<i>Present</i> 8/1/54
<i>Bottles</i>			
24/12 oz Ret. Reg.	3.51	3.69	3.69
24/12 oz N.R. Reg.	3.80	3.98	3.98
24/12 oz N.R. 4/6	3.80	3.98	3.98
12/32 oz Ret. Reg.			
12/32 oz N.R. Reg.	4.43	4.63	4.44
12/32 oz N.R. 6/2		4.63	4.44
36/7 oz Ret.		3.60	3.60
<i>Cans</i>			
12/12 oz	1.90	2.00	
48/12 oz 8/6	7.58	7.94	7.94
24/12 oz Reg.	3.80	3.98	3.98
48/12 oz 4/12			7.94
<i>Draught</i>			
Budweiser $\frac{1}{2}$ bbls	15.00	15.75	15.25
Michelob $\frac{1}{2}$ bbls	16.85	17.45	17.45

Commission's Exhibit 17

(8)

KANSAS CITY BRANCH
PRICE TO RETAILERS (NET)

	<i>Pre Oct</i>	<i>10/1/53</i>	<i>9/1/54</i>	<i>Date?</i>
<i>bles</i>				
4/12 oz Ret. Reg.	3.15	S	S	
4/12 oz N.R. Reg.				
4/12 oz N.R. 4/6	3.35	A	A	
2/32 oz Ret. Reg.	3.63			
2/32 oz N.R. Reg.		M	M	
2/32 oz N.R. 6/2				
6/7 oz Ret.	3.09	E	E	
<i>as</i>				
2/12 oz	1.725			
8/12 oz 8/6	6.90			
4/12 oz Reg.	3.39			3.45
8/12 oz 4/12				
<i>ught</i>				
udweiser 1/2 bbls	13.50			
ichelob 1/2 bbls	14.65			

Commission's Exhibit 18

(449)

ST. PAUL BRANCH
PRICE TO RETAILER (NET)

	<i>Pre-Oct.</i>	<i>Post-Oct.</i>	<i>1/1/54</i>	<i>2/1/54</i>	<i>3/10/54</i>
<i>Bottles</i>					
24/12 oz Ret. Reg.	3.33	3.53	S	S	3.1
24/12 oz N.R. Reg.				A	3.7
24/12 oz N.R. 4/6	3.63	3.90	A	M	3.7
12/32 oz Ret. Reg.	3.96	4.12		E	4.1
12/32 oz N.R. Reg.	4.26	4.42	M		4.2
12/32 oz N.R. 6/2		4.52		4.47	4.7
36/7 oz Ret.		3.38	E		3.2
<i>Cans</i>					
12/12 oz	1.86	1.96		S	1.8
48/12 oz 8/6	7.42	7.78		A	7.4
24/12 oz Reg.	3.71	3.89		M	3.7
48/12 oz 4/12				E	
<i>Draught</i>					
Budweiser ½ bbls	14.25	14.95	13.00		13.0
Michelob ½ bbls	15.90	16.40	16.40		16.0

Commission's Exhibit 19

50)

SIOUX FALLS BRANCH

PRICE TO RETAILERS (NET)

	<i>Pre Oct</i>	<i>10/8/53</i>	<i>2/18/54</i>
--	----------------	----------------	----------------

bottles

24/12 oz Ret. Reg.	3.35	3.50	3.35
24/12 oz N.R. Reg.	3.70		
24/12 oz N.R. 4/6	3.70	3.94	3.75
12/32 oz Ret. Reg.			
12/32 oz N.R. Reg.	4.40	4.56	4.45
12/32 oz N.R. 6/2			
36/7 oz Ret.			

cans

12/12 oz	1.85	1.93	1.88
48/12 oz 8/6	7.40	7.68	7.50
24/12 oz Reg.	3.70	3.84	
48/12 oz 4/12			

draught

Budweiser 1/2 bbls	14.90	15.54	15.00
Michelob 1/2 bbls	16.00	16.49	16.49

Commission's Exhibit 20

(451)

DENVER BRANCH
PRICE TO RETAILER (NET)

	<i>Pre-Oct</i>	<i>Oct 53</i>	<i>2/24/54</i>
Bottles			
24/12 oz Ret. Reg.	3.45	?	3.70
24/12 oz N.R. Reg.	3.65		3.75
24/12 oz N.R. 4/6	3.66		3.80
12/32 oz Ret. Reg.			4.32
12/32 oz N.R. Reg.	4.30		4.49
12/32 oz N.R. 6/2			4.55
36/7 oz Ret.	3.24		3.46
Cans			
12/12 oz	1.85		1.90
48/12 oz 8/6	7.48		7.58
24/12 oz Reg.	3.69		3.79
48/12 oz 4/12			
Draught			
Budweiser ½ bbls	14.25		14.25
Michelob ½ bbls	16.00		16.00

Commission's Exhibit 21

(452)

**SAN FRANCISCO BRANCH
PRICE TO RETAILER (NET)***Pre-Oct 10/15/54 2/24/54***Bottles**

24/12 oz Ret. Reg.	3.79	3.79	3.49
24/12 oz N.R. Reg.	3.79		3.82
24/12 oz N.R. 4/6	3.79	4.09	3.82
12/32 oz Ret. Reg.			
12/32 oz N.R. Reg.	4.50	4.69	4.39
12/32 oz N.R. 6/2		4.69	4.39
36/7 oz Ret.	3.63	3.63	3.24

Cans

12/12 oz			
48/12 oz 8/6	7.54	7.92	7.56
24/12 oz Reg.	3.77	3.96	3.78
48/12 oz 4/12			

Draught

Budweiser ½ bbls			14.90
Michelob ½ bbls			

Commission's Exhibit 22

(453)

**LOS ANGELES BRANCH
PRICE TO RETAILER (NET)**

	<i>Pre-Oct</i> 1953	1/27/54	6/24/54
Bottles			
24/12 oz Ret. Reg.	3.80	3.40	3.27
24/12 oz N.R. Reg.	3.80	3.76	3.66
24/12 oz N.R. 4/6	3.80	3.76	3.66
12/32 oz Ret. Reg.			
12/32 oz N.R. Reg.	4.47	4.30	4.27
12/32 oz N.R. 6/2	4.59	4.35	4.30
36/7 oz Ret.		3.24	3.24
Cans			
12/12 oz	1.89	1.87	
48/12 oz 8/6	7.55	7.48	7.28
24/12 oz Reg.	3.78	3.74	3.66
48/12 oz 4/12			
Draught			
Budweiser ½ bbls			14.50
Michelob ½ bbls			

Budweiser and Michelob Prices

EFFECTIVE DATE	Returnable Bottles			Non-Returnable Bottles				Cans		Draught			
	24/12	12/32	36/7	24/12	12/32	4/6's 24/12	6/2's 12/32	24/12	12/12	8/6's 48/12	4/12's 48/12	BUD.	MICH.
# F.O.B. ST. LOUIS, MO.													
9/30/53	3.14 *	3.52 *	3.18 *	2.75	3.24	2.79	3.34	2.79	1.40	5.68		10.50	12.01
10/1/53	3.29 *	3.68 *	3.32 *	2.93	3.40	3.03	3.50	2.93	1.48	5.96		11.50	12.50
7/15/54											5.92		
EXCEPTIONS:													
OHIO—10/25/54	3.215*	3.56 *		2.77	3.28	2.87	3.38	2.81		5.72	5.68		
MASS.—8/1/54					3.22		3.32						
MISSOURI & WISCONSIN—Prices were not increased on 10/1/53 and still remain as at 9/30/53.													
# F.O.B. NEWARK, N. J.													
9/30/53	3.35 *			2.95	3.38	3.00	3.48	2.89	1.45	5.88		11.46	12.61
10/1/53	3.47 *			3.05	3.54	3.15	3.64	3.03	1.53	6.14		11.96	12.96
5/17/54												11.50	
7/15/54											6.12		
EXCEPTION:													
MASS.—8/1/54					3.36		3.46						
# F.O.B. LOS ANGELES, CAL. (Shipments to Arizona, California, Nevada, Idaho, Oregon, Utah and Washington)													
1/26/54	3.43 *		3.47 *	3.04	3.55	3.14	3.65	3.02	1.52	6.13		12.07	13.07
6/1/54	3.34 *		3.32 *	2.99	3.50	3.04	3.55	2.97	Disc.	6.02	6.02	11.50	12.50
EXCEPTION:													
Idaho, Wash. & Oregon—7/2/54												9.75	

* Prices include bottles subject to repurchase @ .84 per carton 24/12 oz., .66 per carton 12/32 oz. & .96 per carton 36/7 oz.

J. E. Ritter
Oct. 26, 1954

Commission's Exhibit 24-A

(456)

Mr. J. E. Barsi**June 18, 1954****Mr. J. Hallquist, Jr.**

This is to brief you on the steps that have been taken at the City Sales Department in connection with price reduction that is to become effective Monday morning, June 21, 1954.

1. The City Department salesmen were assembled in Mr. Walsh's office and instructed as follows:
 - a) To make no statements to reporters or other newspaper representatives, and to refer any requests by such people to Fleishman-Hillard, Inc.
 - b) In their calls today to present the picnic theme idea for our price reduction using the brochure to indicate the advertising support Anheuser-Busch is giving this promotion.
 - c) To nail down today on every tavern call a 20¢ over the bar price if local brands sell at that price and put up immediately in the center of the back-bar one of our wall easel signs with a 20¢ price sticker hand lettered with the word "now" and a crude arrow pointing to the 20¢.
 - d) If the retailer would not agree to reduce his over the bar price immediately, to determine when the reduction would be made, whether Monday or when the floor stock was sold.

Commission's Exhibit 24

- e) To write a separate report where the retailer indicated he would not reduce his price. Special squads using the memorandum would then visit the retailer to see whether they could change his mind.
- f) The salesmen were instructed to make their calls as rapidly as possible in order to cover as much territory as possible today.

Commission's Exhibit 24-B

(457)

- 2. The entire sales force will make retail calls in the usual manner on Saturday, June 19th. We are doing this in order that we can cover as many retail outlets as possible and establish as many 20¢ over the bar prices as possible before the local breweries are able to attempt to counteract our action with their own sales forces.
- 3. We will hold a meeting starting at 9:00 A.M. on Saturday morning to brief all of the St. Louis drivers.
- 4. We have enlisted the assistance of Fred Webber in having printed and ready for distribution beginning Monday morning an inexpensive cardboard sign reading, "12 oz. Bottle Budweiser Now 20¢".
- 5. The telephone order staff of the St. Louis branch will be on duty all day Saturday and we have requested that our main switchboard remain open until 5:00 P.M. tomorrow.

Commission's Exhibit 24

6. The salesmen will indicate on their daily report sheet, by account, the results of their attempt to establish the lower price and we shall be able to tabulate from it the progress being made for transmission to you.

Arrangements are also being made for the necessary additional delivery equipment, additional manpower and the additional quantity of inventory that must be made available.

Attached to this memorandum is the new schedule of prices for the City Sales Department which will be effective on Monday, June 21, 1954.

J. Hallquist, Jr.

Att.

Commission's Exhibit 24-C

(458)

NEW PRICES

24/12 oz. Ret.	\$2.35
24/12 oz. N.R.	2.81
24/12 oz. N.R. 4/6s	2.83
12/32 oz. N.R.	3.11
12/32 oz. Ret.	2.96
36/7 oz.	2.60
24/12 oz. Cans	2.99
48/12 oz. Cans 8/6s	6.08
12/12 Cans	1.51
Budweiser D/B	12.48
Michelob D/B (to remain the same)	13.98

Commission's Exhibit 25

(459)

18th
Friday June 17th

Dist. #1	16 calls	All will wait until floor stock is depleted.
" #2	12 "	1 immediately—1 will not change—3 undecided—7 will change Monday.
" #3	11 "	4 will change immediately—7 when floor stock is depleted.
" #4	11 "	4 will change immediately—7 will change Monday.
" #5	9 "	1 will change immediately—8 will change Monday.
" #6	12 "	4 will change immediately—8 will change Monday.
" #7	13 "	1 place closed—5 will change immediately—5 will change Monday—2 stops owners not in.
" #8	13 "	4 will change immediately—1 when floor stock is depleted—1 will change Saturday—5 will change Monday—2 were undecided.
" #9	9 "	7 changing immediately—2 will change Monday.
" #10	12 "	4 will change immediately—4 will change Monday—2 will not change until the rest do—2 owners not in.
" #11	16 "	15 will change Monday—one will change Saturday.
" #12	11 "	1 had already lowered price—7 will change Monday—3 will change when floor stock is depleted.
" #13	14 "	1 will change immediately—3 when floor stock is depleted—10 will change Monday.
" #14	16 "	2 will change Monday, but were unfavorable—will change Monday.
" #15	15 "	1 would not commit himself—1 said he would with partner—1 will change Monday—12 will change when floor stock is depleted.
" #16	10 "	4 will change immediately—6 will change Monday—Tuesday
200 Calls		39 Immediately
		101 Will change Monday
		42 will change when floor stock is depleted
		7 Undecided
		2 will change Saturday
		5 owners not in
		3 will not change
		1 had already changed

Commission's Exhibit 26-A

19th

URDAY—June 18th—1954

#1	24 calls	6 will change Monday—17 when floor stock is depleted—1 will not change
NOTE: 1 customer Clara Capuran—18 N. 9th—Monday will reduce 7 oz. bottles to 2/25¢		
#1 (Lockman)	17 calls	14 will change Monday—3 owners not in
#1 & #2 (Peters)	20 calls	all will reduce Monday
#1 (Palermo)	24 calls	2 immediately—15 will reduce Monday—2 owners not in—1 closed—4 when floor stock is depleted.
#2	13 calls	4 immediately—8 will change Monday—1 when floor stock is depleted.
#2 (Maggio)	13 calls	10 will change immediately—1 will change Monday—2 will wait and see what neighborhood does.
#3	19 calls	2 immediately—13 will change Monday—1 will reduce all beers 15¢ on Monday—1 owner not in—2 closed.
#3 (Capito)	20 calls	9 will change Monday—2 when floor stock is depleted 4 owners not in—2 undecided—1 will not change 1 handles 7 oz. only and price will remain 15¢— 1 will change immediately.
#4 (Parker)	15 calls	8 will change Monday—2 do not like it but will do what neighborhood does—5 owners not in.
#4 (Bohn)	31 calls	23 immediately—3 undecided—5 owners not in. 3.2%
#5	14 calls	4 will change immediately—6 Monday—1 owner not in—3 undecided.

Commission's Exhibit 26

Dist. #5 (Huebner)	14 calls	3 will change Monday—5 owners not in—2 when floor stock is depleted—1 closed—1 undecided—immediately.
Dist. #5 (Krolle)	14 calls	3 immediately—7 Monday—2 owners not in—closed—1 does not stock Pints because of 7 oz. bottle sales
Dist. #6	12 calls	5 immediately—7 will change Monday
Dist. #7	18 calls	2 immediately—8 Monday—4 when floor stock depleted—2 closed—2 will not change until they see what others are doing.
Dist. #7 (Bigham)	22 calls	2 immediately—8 Monday—11 when floor stock depleted—1 undecided
Dist. #8 (Shenk)	19 calls	4 immediately—11 Monday—1 will not change—1 will change Tuesday—1 when floor stock is depleted—1 will change 6-31-54 (no license at present)

Commission's Exhibit 26-B

(461)

Dist. #8 Al Lucas	25 calls	12 immediately—7 Monday—2 closed—3 when floor stock is depleted
Dist. #9	16 calls	7 immediately—9 Monday
Dist. #9 Bosch	17 calls	12 immediately—4 Monday—1 closed
Dist. #10	21 calls	10 immediately—2 Monday—4 when floor stock depleted—1 will not change—4 owners not in
Dist. #10 Schunick	19 calls	11 Monday—2 after floor stock is depleted—3 owners not in—3 immediately
Dist. #4 Brenck	18 calls	8 immediately—1 when floor stock is depleted—Monday
Dist. #7 Shulte	18 calls	4 immediately—6 after floor stock is depleted—Monday—1 will not change—2 (Nite Club) all beer 30¢

Commission's Exhibit 26

Dist. #2 (Williams)	27 calls	18 immediately—3 closed—2 Monday—4 owners not in.
Dist. #10 Loehr	20 calls	6 Monday—3 immediately—11 when floor stock is depleted
	490 calls	200 Monday 69 when floor stock is depleted 39 owners not in 141 immediately 13 closed 6 will follow neighborhood 5 will not change 9 undecided 3 undecided (because they are 3.2% outlets and have no competition 1 does not stock Pints 1 Tuesday 1 6-31-54 (licensed expired—will renew 6-31-54 2 Night Clubs—30¢ for all beers
	Misc.	
	690 calls	2 days
	180 "	change immediately
	301 "	change Monday
	111 "	change when floor stock is exhausted

 592

8 said will not change

Commission's Exhibit 27-A

(462)

June 21, 1954

Mr. J. E. Barsi:

I thought it would be well to give you a written report covering the items discussed by long distance telephone Sunday with both you and Mr. Busch. During Friday afternoon and Saturday our salesmen made a total of 690 retail calls. Of these

180 outlets changed their price immediately

301 will change their price on Monday

111 will change when floor stock is sold

592 total

Of the remaining 98 outlets there were a considerable number where the owners were not in or who, for one reason or another, had not come to a definite decision as to their new pricing. Only 8 outlets indicated to our salesmen they would not change their price.

Mr. Walsh reported to you before you left St. Louis that he had contacted the chain organizations and all of these agreed to either change their price on Friday or Saturday or on Monday, when our new price became effective.

All the hotels have indicated they will sell Budweiser at the same price as the local beers. This, of course, might be 25¢ per bottle, 30¢ per bottle, or higher, depending on the hotel.

Bettendorf's, who have a number of large grocery outlets, changed their retail price on Friday evening. On Saturday morning they called for additional merchandise and two full truck loads were sent to the Hampton Village Store and one full truck load to the South Grand Avenue Store.

Commission's Exhibit 27

One of our salesmen reported this morning that he purchased the last carton of Budweiser from these deliveries on Saturday evening after leaving the short meeting we held.

Mr. John Mannshardt reported the following concerning his neighborhood grocery store at Leonia and Fillmore in South St. Louis. This account purchased about 10 cartons per month prior to our January price decrease. Since our price decrease in January, he has averaged from 50 to 60 cartons of Budweiser per month. He sells a total of approximately 200 cartons of all Brands per week. He gave Mr. Mannshardt an order for delivery Monday morning for 100 cartons and an additional 100 cartons to be delivered on Thursday. It is this retailer's feeling that practically all his sales will be Budweiser.

A number of salesmen reported that a very splendid reaction was obtained from consumers in various retail outlets. In outlets where the retailers agreed to reduce the price immediately and place the 20¢ price card, many consumers changed immediately from the Stag, Falstaff or Griesedieck they were drinking to Budweiser.

Commission's Exhibit 27-B

(463)

There were no competitive salesmen on the street Saturday and our St. Louis crew, which had been augmented by six men from the Kansas Branch, were able to work with no interference.

One of our salesmen reported at the meeting Saturday evening that he had met a Griesedieck driver who told him that all the Griesedieck drivers had a meeting with their Management on Friday evening. At that time they were told their story was to be that Budweiser had cheap-

Commission's Exhibit 27

ened the quality of their product in order to sell at local beer prices. This has not been verified and we have not received any further information as a result of contacts with the retail trade.

After our salesmen had a brief meeting on Saturday morning, they immediately left for their retail calls. A meeting was held beginning at 9:00 a.m. in the Reception Room of the Bottling Plant with all the St. Louis drivers and driver salesmen. This group totaled about 100 men. At this meeting we explained the story which we wanted our men to give to the retail trade concerning the reasons for our price reduction and the objectives which we had, especially in the on-sale outlets. The meeting lasted for approximately 2½ hours, and I am sure it will be productive of some good work on the part of this large group of men in reaching our objectives.

There is very little information I can give you concerning activities today, and I will telephone you as soon as we have some indications as to how sales are progressing.

I was not able to contact Mr. Bien until very late Sunday night, so that the transfer of some Chicago men had to be delayed until today. Twelve of them are scheduled to arrive here by plane about 3:00 p.m. and will be on the street the balance of the afternoon and this evening.

I had a brief meeting this morning with General Hardy and some of the Production Department personnel, to set up plans for an operation that will be geared to three or four times our previous daily normal.

Rapid progress is being made in obtaining additional delivery equipment, and it appears that the situation is at least temporarily under control.

J. Hallquist, Jr.

Commission's Exhibit 28

(464)

All hotels have changed price — Bud the same as locals — 25 — 30 — 35 etc. All 16 changes have changed or will change Monday.

Bettendorf, who changed Friday night,—required 2 truck loads of beer on Saturday to Hampton Village Store—one load to So. Grand store.

Small store at which Mannshardt trades used 10 cs in Jan.—50 a month since then estimates he will sell almost nothing but Budweiser—total beer sales 200 cs per week. Ordered 100 Bud for Monday—100 more for Thursday.

Consumers are happy—when 20¢ price card goes up they switch immediately from Stag — Gries — Falstaff & start drinking Budweiser.

No competitive salesman on street Saturday—so we stole the show. What their story will be Monday is not known.

Griesedieck driver told our salesman who is a personal friend that all Griesedieck drivers had a meeting and their story will be that Budweiser's quality (465) has been cheapened in order to sell at a lower price and it is not the same beer.

We had anticipated a story of this kind and hit it hard in our meeting with our drivers Saturday.

Had 2 hour meeting—drivers will go all out starting Monday and will try to knock prices down.

Commission's Exhibit 28

Two problems still remain:

- 1) Changing over bar price in remainder of places.
- 2) Building adequate inventories in every outlet.

On Monday — we will begin telephone solicitation to do 2 things:

- 1) Officially notify everyone as soon as possible.
- 2) Try to get larger orders.

Commission's Exhibit 29-A

(466)

June 22, 1954

Mr. J. E. Barsi:

This report covers the information given to Mr. Busch on Monday evening, June 21.

Our salesmen, together with the Kansas City group made 458 calls. Of this number:

278 immediately changed their price to the consumer.

80 indicated they would change when their floor stocks are depleted.

56 outlets were either closed or the owners were not in.

The remainder of the outlets had a variety of reasons and only seven outlets indicated they will not change their price.

Mr. Busch asked me whether I thought the 20¢ price was definitely established in the St. Louis market, and I indicated to him I felt our major problem on this score is past us.

Shown below is a table of Monday and Tuesday sales, comparing the current period with a week ago and a year ago.

Monday	June 21, 1954	13,775
	June 14, 1954	8,166
	June 22, 1953	7,967
Tuesday	June 22, 1954	17,000
	June 15, 1954	11,750
	June 23, 1953	8,156

Commission's Exhibit 29

The 17,000 indicated for Tuesday is necessarily an estimated figure because a very high percentage of our business is done from route wagons, and definite determination as to our sales is not possible until all of the trucks have returned to the plant and checked in. In other words, Tuesday's figures will not be authentic until approximately midnight Tuesday night.

The general flow of orders, however, is increasing very nicely, especially from the grocery stores and package stores. Increasing the size of orders in taverns, however, is a very definite problem and one we are trying to meet with every bit of skill at our command. In many of the taverns the lack of credit is a problem, and all of the local breweries sell these outlets, generally, for cash. We are prepared to extend credit wherever it is justified.

It is a real problem to get the retailers in on-premise accounts to fully realize their sales of Budweiser will go, in many instances, from a poor fourth to the leading seller. In many instances taverns will, in my opinion, use from 50 to 100 cartons of Budweiser compared to the 5 to 10 they presently sold per week.

Commission's Exhibit 29-B

(467)

There is also a problem of getting retailers to devote adequate cooling facilities for Budweiser and to reduce the cooling facilities now given to other brands. All of the salesmen have been thoroughly briefed both on trying to trade up orders, to obtain adequate cooling space, and to arrange for any number of deliveries per week that are necessary to keep retailers supplied.

Commission's Exhibit 29

Twelve men from the Chicago Logan and Chicago Kimbark Branches arrived at 5:00 p.m. on Monday evening and immediately went out on the street, paired off with St. Louis salesmen, to solicit draught beer business. They were paired off in order that they could have an opportunity of learning the local situation. These twelve men were sent out alone today, each using our regular route book.

You, no doubt, have heard already that the Schenberg markets advertised Budweiser at \$2.29 per carton, which is 6¢ under our cost to the retailer — for 24/12-oz. returnable bottles. A neighboring outlet advertised this same price on Tuesday evening. Steps have been taken to have these cut prices cease by the time the time limit of Wednesday evening expires.

Both the Falstaff and Griesedieck drivers have been telling the story concerning the change in Budweiser quality. However, it does not appear that any problem will be created by them. The main complaints we have received to date have concerned our failure to reimburse retailers for the floor stock on hand, and this especially in view of our previous sudden reduction in price. It is, however, not enough to become concerned about.

Pabst Blue Ribbon announced at noon yesterday that they were reducing all their prices to be exactly the same as ours and local breweries.

Considerable response has been had from the grocery chains in advertising reduced prices for Budweiser and copies of the ads that appeared Monday and Tuesday morning are enclosed for your information. It is my understanding that very considerable number of smaller groceries will advertise in community newspapers and their own hand bills.

Commission's Exhibit 29

New package beer accounts are being obtained, and it is my opinion we will wind up with practically 100% distribution. All of the men have been adding additional packages in existing retail outlets and we are trying to establish take-home departments in as many taverns as possible. About 80% of the outlets called on yesterday had either changed their price already or indicated they would change either immediately or as soon as floor stocks were adjusted. Many outlets had reduced their over-the-bar price without having had a visit from the salesman or a telephone call from the office.

It appears that our major problem from here on in will be in getting adequate orders from retailers and having adequate cooling space in retail outlets devoted to Budweiser.

J. Hallquist, Jr.

Att.

Commission's Exhibit 30-A

(468)

TUESDAY—JUNE 22nd, 1954

Dist. #1	Nykiel	18 calls	5 immediately—5 when floor stock is depleted—6 will not change—2 closed
Dist. #1	Martin	24 calls	9 already changed—3 immediately—8 undecided—3 when floor stock is depleted—1 will not change
Dist. #1	Lockman	19 calls	17 already changed—1 when floor stock is depleted—1 undecided
Dist. #2	Maggio	24 calls	14 immediately—3 already changed—4 closed—2 owners not in—1 will not change
Dist. #2	Philben	15 calls	6 immediately—2 7 oz. bottles only—1 out of business—4 owners not in—2 when floor stock is gone
Dist. #2	Wall	13 calls	9 immediately—1 will not change—3 undecided
Dist. #3	Capito	24 calls	4 owners not in—1 closed—17 immediately—2 will not change
Dist. #3	O'Neil	17 calls	1 out of business—8 immediately—5 when floor stock is gone—2 will change Wednesday—1 out of business
Dist. #3	Byers	14 calls	2 will not change—7 when floor stock is gone—5 immediately
Dist. #4	Brencick	15 calls	11 immediately—1 closed—2 when floor stock is gone—1 undecided
Dist. #4	Karas	17 calls	8 immediately—2 when floor stock is gone—3 owners not in—3 closed—1 prospect
Dist. #5	Parker	11 calls	7 immediately—1 when floor stock is gone—1 will not change—2 closed

Commission's Exhibit 30

Dist. #5	Kasper	13 calls	8 already changed—4 immediately—owner not in.
Dist. #5	McNally	14 calls	7 immediately—3 when floor stock is gone—2 owners not in—1 will not change—undecided
Dist. #5	Huebner	17 calls	9 immediately—1 will not change—1 already changed—5 when floor stock is gone—1 owner not in.
Dist. #6	Miller	14 calls	12 immediately—2 when floor stock is gone
Dist. #6	Brownstein	13 calls	11 immediately—1 Prospect—1 owner not in.
Dist. #6	Langley	13 calls	2 immediately—7 when floor stock is gone—2 will not change—2 closed
Dist. #7	Fulton	16 calls	12 immediately—2 will not change—2 when floor stock is gone
Dist. #7	Heaven	8 calls	4 already changed—3 will not change—1 when floor stock is gone

Commission's Exhibit 30-B

(470)

Dist. #8	Shenk	11 calls	3 immediately—1 when floor stock is gone—2 undecided—3 owners not in—2 closed
Dist. #8	Nekas	12 calls	3 closed—4 when floor stock is gone—1 already changed
Dist. #9	Brogen	17 calls	2 closed—3 owners not in—12 immediately
Dist. #9	Bosch	13 calls	10 immediately—1 closed—1 when floor stock is gone—1 undecided
Dist. #9	Christian	15 calls	10 immediately—2 closed—1 Prospect—2 when floor stock is gone
Dist. #10	Geary	16 calls	3 when floor stock is gone—1 Prospect—12 immediately

Commission's Exhibit 30

Dist. #10	Theobald	15 calls	9 immediately—4 owners not in—1 undecided—1 will not change
Dist. #10	Lohr	15 calls	12 immediately—2 will not change—1 already changed
Dist. #11	Lucas	16 calls	8 immediately—4 already changed—4 when floor stock is gone
Dist. #12	Williams	18 calls	10 already changed—6 immediately—2 when floor stock is gone
Dist. #12	Palermo	17 calls	8 already changed—5 immediately—2 when floor stock is gone—1 undecided—1 does not buy
Dist. #13	Kroll	17 calls	10 immediately—1 when floor stock is gone—6 already changed
Dist. #15	Bohn	13 calls	13 already changed
Dist. #16	Shunick	20 calls	11 immediately—9 when floor stock is gone
		534 Calls	258 immediately
			77 when floor stock is gone
			30 will not change
			25 closed
			89 already changed
		258	19 undecided
		89	24 owners not in
		—	4 Prospects
		347	2 will change Wednesday
		77	3 out of business
		—	2 handles 7 oz. only
		424	1 does not buy Budweiser

Commission's Exhibit 30-C

(471)

NOTES

Martin — 2338 Olive and 2345 Olive — will not change — are going to have a meeting could give no good reason

Also on Market Street 1500 to 1700 and also some in the 1800 block will not change — Reason given is because Schlitz is coming into St. Louis and are planning to buy Hyde Park Brewery and want to see what happens

Palermo — Stag Driver made remark they will hold their price until the summer months is over.

Some made the remark we are crucifying the little fellow — meaning Falstaff and Stag — Salesman explained these two Breweries are far from being little that Falstaff is a regional beer.

Lockman Beaumont Tavern — Had been using 50 cases of Stag and converted to Budweiser weekly

Quality seemed to be an important discussion — Stag is working on a plan to arm their men on the quality story

Some asked about Faust and Mr. Hallquist said to answer this question by saying "We want to give the people in St. Louis the privilege of tasting Budweiser at a price they can afford

Some made the remark they are afraid to stock in too much Budweiser because Stag may come down in Price — Hallquist told them all to display newspaper article which contradicts this fact

Commission's Exhibit 30

Empty bottle problem — some complained about having a lot of money tied up in empty bottles — Mr. Hallquist said we will send empty shells, but not to encourage this procedure.

Discussion regarding Katz and Walgreen — one salesman reported that Katz at 8th and Washing had not changed their price —

Bob Fuegner reported that Francis Katz told him they would not have an overall standing price, but that all Katz stores would meet competitive prices in their respective neighborhoods

One salesman thought Grocer Store demonstrations would be helpful but Mr. Hallquist explained that we do not have the available manpower for this at the time being.

Salesmen were approached because no letter of notification had been mailed and Mr. Hallquist explained reason for this.

Special advertisement did not appear

Flotken mkt 385

500

885 cases

today

Commission's Exhibit 31

(472)

June 25, 1954

Mr. J. E. Barsi:

This is a recap of the information given you by telephone at the Los Angeles Brewery on *Wednesday, June 23, 1954*. The comparison of sales is shown immediately below:

Tuesday,	June 22, 1954	17,145	
	June 23, 1953	8,156	
		<hr/>	
	Variance	8,989	110.2% increase
	June 15, 1954	11,804	
Wednesday,	June 23, 1954	18,000	
	June 24, 1953	8,861	
		<hr/>	
	Variance	9,139	103.1% increase
	June 16, 1954	9,177	

The sales organization made a total of 534 retail calls.

258 outlets changed their prices immediately

89 outlets had already changed

77 indicated they would change when their floor stock was exhausted.

30 stated they would not change their price.

Of the remaining outlets some were closed, some owners were undecided, and from the remainder we have a miscellaneous group of reports.

A common request voiced by retailers was for information as to when the prices at the ball park would be re-

Commission's Exhibit 31

duced, and some retailers indicated they would wait with their reduction until the next ball game scheduled for July 5.

We are hearing increased comments from retailers concerning their \$1.20 loss in gross profit because of their reduction in the selling price of Budweiser to 20¢ per bottle.

Food and liquor stores generally are giving Budweiser top display positions in their stores and many are building mass selling displays of their own volition.

We are hearing increasing amounts of comment by other breweries driver and salesman personnel concerning the quality of Budweiser. Some of our salesmen stated that a number of retailers indicated fear of stocking too much Budweiser because other brands might reduce their price. However, the (473) Globe-Democrat carried an article Wednesday on beer prices in St. Louis. In this article the various executives of Stag, Griesedieck and Falstaff stated emphatically that there were no plans to reduce prices. Our salesmen were told to use this newspaper article wherever mention was made that the locals might reduce price.

I have previously reported concerning the Schenberg market \$2.29 price and phenomenal sales of Budweiser. The Flotken supermarkets reduced their price in their two stores and on Wednesday received 385 cartons in the morning and an additional 500 cartons were scheduled for delivery in the afternoon.

I believe this covers the major points discussed with you by telephone.

J. Hallquist, Jr.

(474)

Commission's Exhibit 32

[COPY OF WESTERN UNION TELEGRAM]

June 25, 1954

Mr. J. E. Barsi

c/o August A. Busch, Jr. Party

Santa Fe Business Car

Santa Fe Train No. 24 Eastbound

Arriving 5:55 P.M. Central Standard Time

Amarillo, Texas

THURSDAY SALES 19,259. ESTIMATING FRIDAY 20,000. PRICE
REDUCTION RETAIL OUTLETS FOLLOWING USUAL PATTERN.
STAG FULL PAGE QUALITY ADVERTISEMENT THURSDAY
NIGHT PAPER. RADIO BROADCAST OF LETTER TO RETAILERS.
NO ADVERSE REACTION AS YET OR EXPECTED. FULL OPERA-
TIONS SATURDAY—THIRTY-FIVE SALESMEN, ALL TRUCKS
AND GIRLS ON TELEPHONE SOLICITATION. WILL MEET YOU
AT UNION STATION.

J. Hallquist, Jr.

Anheuser-Busch, Inc.

Commission's Exhibit 33

(475)

June 25, 1954

Mr. J. E. Barsi:

This is a resume of the information given you on *Thursday morning, June 24*. The sales comparisons are shown below:

Wednesday, June 23, 1954	21,000	
June 24, 1953	8,861	
	<hr/>	
Variance	12,139	137% increase
June 16, 1954	9,177	
Thursday, June 24, 1954	18,000 est.	
June 25, 1953	8,105	
	<hr/>	
Variance	9,895	122.1% increase
June 17, 1954	10,014½	

Our salesmen made a total of 625 calls.

312 outlets immediately changed the price.

85 had already changed

95 will change when floor stock is exhausted

28 indicated they would not change

35 owners were not in

Miscellaneous reasons were given for the balance of the calls.

There has been some noticeable stiffening in attitude on the part of retailers to change their over-the-bar price,

Commission's Exhibit 33

which probably results from the contact by competitive breweries drivers and salesmen. I noticed in the retail calls I made that in the outlets where the price had been reduced, the sign which had been erected had been removed by the owner or his employees. In such outlets consumers were still drinking Falstaff and Stag and apparently did not fully realize that Budweiser could be purchased at that particular outlet for 20¢.

Our salesmen have been instructed after they have set up the bar to speak briefly with each consumer, letting him know that Budweiser can be purchased at the same price as locals in almost every tavern in the city.

Our salesmen have been reporting an increasing number of incidents where the consumer himself has become involved in a discussion with retailers who are attempting to continue the 25¢ price.

I also read to you over the telephone the letter, of which a copy is attached, released by the Griesedieck Western Brewing Company to the retail trade.

J. Hallquist, Jr.

Att.

Commission's Exhibit 34

(477)

BULLETIN

*We are inviting the people of
St. Louis and St. Louis County to*

MAKE THE BUDWEISER TEST

WE ARE ADDRESSING those of you who may not know the golden goodness of Budweiser...those of you who have been drinking ordinary beers.

WE WANT YOU to know why Budweiser has been enjoyed by more people than any beer in history. We want you to know why Budweiser today is the largest-selling beer in the world. We want you to know that this leadership has been earned at premium prices—justified by premium ingredients and the costliest brewing process known.

Now You can make

the Budweiser Test

at the same prices you pay for ordinary Beers

Available at all restaurants, taverns, food and liquor stores—in bottles—in cans—on draught.

WE ASK YOU TO DO THIS:

Drink Budweiser exclusively for 5 days. Then try any other beer. We believe your good taste will tell you to make Budweiser the beer of your lifetime, too.

Commission's Exhibit 34

*In what other beer
can you get all this?*

- The taste created by the *costliest* brewing process on Earth.
- Much, much *longer* than average ageing.
- *All* natural carbonation *all* of the time.
- True lagering... fermented not *once* but *twice*.
- *Choicest* hops, rice and *best* barley malt... as our label proudly states.
- The *pride of serving* the world's most famous beer.

B U D W E I S E R

ANHEUSER-BUSCH, INC.

St. Louis ● Newark ● Los Angeles

478



JUST THINK OF IT!

At Taverns and Restaurants in
St. Louis and St. Louis County...

YOU CAN NOW ENJOY
Budweiser®

AT ORDINARY
BEER PRICES!

This is the same supreme-quality Budweiser that:

- Still sells at premium prices around the world...
- Is brewed by the costliest process on earth...
- From choicest hops, rice, and best barley malt...
- Aged much, much longer than average, truly lagered...
fermented not once, but twice...
- And all naturally carbonated all of the time.

POST JUL 23 1964



ANHEUSER-BUSCH, INC.
ST. LOUIS
NEWARK • LOS ANGELES

GUIDED TOURS OF THE ANHEUSER-BUSCH
BREWERY DAILY, MONDAY THRU SATURDAY.
YOU'RE WELCOME! PHONE PR 3-3100 FOR DETAILS.

Commission's Exhibit 36



Kind of Sale
Auction!

OFFICIAL TRADE COMMISSION
BOTTLED AT THE BREWERY
St. Louis, Mo.
Bottled at the Brewery
St. Louis, Mo.
Bottled at the Brewery
St. Louis, Mo.

To all our friends in
St. Louis and St. Louis County



Now you can enjoy Budweiser at
ORDINARY BEER PRICES

THE SAME BUDWEISER that still sells
at premium prices around the world
(for Budweiser costs more to brew
and age)...

THE SAME BUDWEISER that outsells
any other beer in the world (at any
price)...

THE SAME BUDWEISER that is... and
always will be produced from choic-
est hops, rice and best barley malt by
the original Anheuser-Busch process
...the *costliest* on Earth...the only
way Budweiser can be brewed...

THE SAME BUDWEISER that is ferment-
ed not once but twice, aged much
longer than average, all-naturally
carbonated all the time...

THE SAME BUDWEISER that pleases
your taste as no other beer can do.

**MAKE YOUR BUDWEISER
TEST NOW—LET YOUR OWN
GOOD TASTE TELL YOU WHY
BUDWEISER TODAY IS THE
LARGEST-SELLING BEER IN
ST. LOUIS...AND THE WORLD.**

Budweiser®

LAGER BEER

ANHEUSER-BUSCH, INC.
ST. LOUIS • NEWARK • LOS ANGELES

OFFICIAL TRADE COMMISSION
BOTTLED AT THE BREWERY
St. Louis, Mo.
Bottled at the Brewery
St. Louis, Mo.
Bottled at the Brewery
St. Louis, Mo.

ST. LOUIS, MO.
JAN 24 1914
JAN 24 1914
JAN 24 1914

Poured and praised
by more people than any
other beer on Earth...



And now, in St. Louis and
St. Louis County you can enjoy

Budweiser®
at ordinary prices!

LARGEST SELLING BEER IN ST. LOUIS AND THE WORLD

ANHEUSER-BUSCH, INC. ST. LOUIS

GLORF 10 1954



182



Just think of it!

**In St. Louis and St. Louis County
YOU CAN TAKE HOME**

**Budweiser®
AT ORDINARY PRICES**



This is the same supreme-quality Budweiser that:

- Still sells at premium prices around the world...
- Is brewed by the costliest process on Earth...
- Is brewed from choicest hops, rice, and best barley malt...
- Is aged much, much longer than average, truly lagered...
fermented not once, but twice...
- Is all naturally carbonated all of the time.



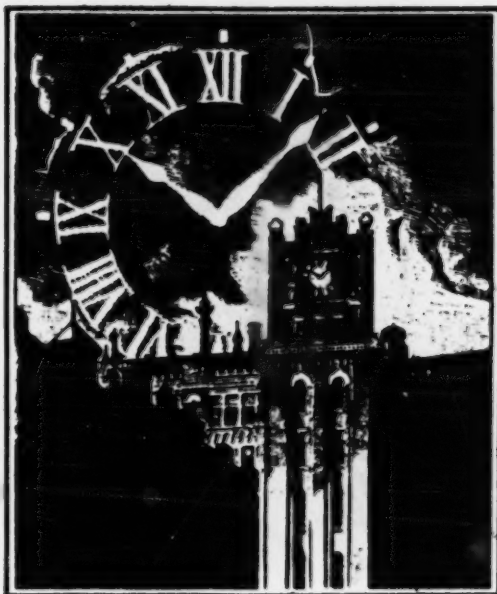
BUDWEISER

GLOBE JUL 27 1964

TODAY... FIRST IN SALES IN ST. LOUIS... AND THE WORLD!

You're Welcome!

TAKE THE FASCINATING TOUR THROUGH THE WORLD'S LARGEST BREWERY



WORLD'S LARGEST BREWERY
GLOBE AUG 3 1904



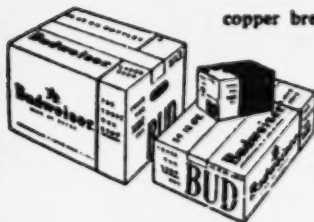
EIGHT TOURS DAILY
MONDAY THRU SATURDAY

A. M.	P. M.
9:30	1:00
10:15	1:45
10:45	2:30
	3:15
	3:45

Just come to the main building at Broadway and Forests Streets. No need to make an appointment unless your group includes 25 or more people (call Prospect 3-3100).

SEE HOW BUDWEISER IS BREWED AND AGED...

BY THE COSTLIEST PROCESS ON EARTH!



If you'd like to see the most magnificent brewery in the world, it's right here in St. Louis... the home of Budweiser. And you're very welcome. Special guides are on hand to show you the giant copper brew kettles, the mechanical miracle of bottling,

and the things you see in no other brewery... the care and skill, time and expense it takes to produce the superior taste of Budweiser.

TODAY... LARGEST-SELLING BEER
IN ST. LOUIS... AND THE WORLD!

Budweiser®

NOW SOLD IN TAVERNS AND STORES IN ST. LOUIS AND ST. LOUIS COUNTY
AT ORDINARY PRICES

Part of Purchase
Material

FEDERAL TRADE COMMISSION

Docket No. 6331 Coca-Cola's Exhibit No. 40

IN THE MATTER OF *Anheuser-Busch*

DOE, PETITIONER, WITNESS *Adopting*

ELECTROREPORT, INC., Official Reporter

BY *g.h.*

Now! Enjoy
Budweiser. *quality*
at ordinary beer prices!

ANHEUSER-BUSCH, INC. ST. LOUIS

185

Commission's Exhibit 41

OPEN EVERY
WEEKDAYS 11 A.M. - 9 P.M.
★ 200
PARKING
LOTS

Let's Go To
Schenberg's
20th
CENTURY
SUPERS
The store with a Personality
in the heart of U. City
6660 DELMAR

FREE Youngstown **KITCHEN**
SINK
AND CABINET . . . ALL STEEL!

Original Value \$139.90

On Display For Your Inspection in Our Store



WILL BE GIVEN FREE FROM SCHENBERG'S SAT. MITE JULY 28th

IT'S BEEN SAID MANY TIMES . . .
We've Given Everything Away . . .
BUT the Kitchen Sink!
AND NOW...

YOU GET THE KITCHEN SINK!

And Remember... NO CASH NEEDED
FREE GIFTS for Everyone

All you have to do is to SAVE and ACCUMULATE your cash register tags each time you shop. For you have the required amount for the free gift catalogues absolutely FREE! Ask the cashier for a free gift catalogue.

See the Huge Selection of Gifts in Our Store . . . Values Up to \$25.00

FRESH . . . GREEN . . . GOLDEN BANTAM

SUGAR CORN 1¢
5 EARS

At Bottle Case 5%
BUDWEISER BEER 2.29
The Regular Bottles

A Few of Our Regular Lower Prices

Jello	2 - 15
Sugar	10 - 95
Milk	3 - 35
Salt	2 - 19
Juice	2 - 45
Corn	2 - 25
Peas	2 - 25
Catsup	2 - 29
Sauce	17
Juice	29
Peaches	25

U. S. CHOICE Boneless Brisket
CORNER BEEF 49¢
A REAL VALUE LB

U. S. CHOICE Well-Tendered
STEAKS 69¢
ROUND TENDERLOIN OR RIB LB

CHICKEN BREAST	39	HAM	59
CAPRISON BEER	3 - 89	BACON	67

FANCY, CANNED
TOMATOES 5¢
New Pack From Texas
300 SIZE CAN . . . 2 Limit With Purchase of \$1.50 or More

Ballard or Pillsbury
BISCUITS 7¢
10 Oven Ready Biscuits in Can
REGULAR 8-OZ. CAN . . . 2 Limit With Purchase of \$1.50 or More

New Low Price . . .
COFFEE 97¢
OUR OWN Schenberg Special Mocha Blend Pound Bag

NOW!!!!
Win a COLOR TV
100 Motors
\$100 TV
CONSOLES

ENTER NOW
ENTRY BLANKS ARE ON THE TOP OF EACH BOX OF FAB

FAB 2 59 71

Commission's Exhibit 43

(488-B)

John Hallquist

St. Louis, Missouri

Mr. A. von Gontrad

July 13, 1954

F. P. Rollins, Jr.

In accordance with your memo of July 7, I called on the following four St. Louis County accounts.

1. Frank N. Schwartz
9936 Gravois

Out of Budweiser. I told Mr. Busch's story and he agreed to sell Budweiser at twenty cents per bottle as soon as the driver made delivery. Left my card and one silver dollar.

2. Edward M. Schaper
North Side Lindbergh & Old Barracks Road

Spent quite a little time with this man who is better known as Fat. When I left him, he was calling me Bud and I was calling him Fat. Spent \$3, left my card and one silver dollar. He agreed to reduce his price from twenty-five cents to twenty cents on next delivery of Budweiser.

3. Henry Kruger
7802 Gravois

This was quite a stop and at first was a pretty hard man to deal with. Has Griesidick Draught Beer. Spent \$8, left my card and one silver dol-

Commission's Exhibit 43

lar with the bartender. Kruger is now selling our 7 ounce for 15 cents, 12 ounce for 20 cents. I would say he is now cooperating. He is quite a chiseler but with development could become a draught account of ours if City Sales will follow up.

4. Brysons Tavern
Manchester

Selling our bottles for 20 cents and our cans to go out for 20 cents. This was a substitute call as Alex Kelley was closed.

Worked from 8 p.m. to 12 p.m. Total spending, \$15.

F. P. Rollins, Jr.

Commission's Exhibit 44

(489-B)

July 7, 1954

Mr. Frank Rollins:

You will recall that at the meeting Mr. Busch held with his staff the other day, everybody was willing and happy to cooperate in calling on accounts where we still show a 5¢ differential.

You know the story Mr. Busch told.

I would like to have you call on the following four accounts:

Frank N. Schwartz
9936 Gravois

Edward M. Schaper
North Side Lindbergh & Old Barracks Rd.

Henry Kruger
7802 Gravois

Alex Kelley
Ballwin Rd. E. of Kiefer Rd.,
R. 1, Ballwin, Mo.

Shall appreciate your reporting as each call is completed.

A. von Gontard

P.S. Please send me a memo of any expenses incurred.

Commission's Exhibit 45

From:
Jerry Walsh
St. Louis Branch

Draught and Bottle Beer Sales—St. Louis & St. Louis County
3.2% and 5%
January, 1953 - 1952

March 17th, 1953

	1952 D/B Bbls.	1953 D/B Bbls.	Inc. or Dec. Bbls.	% of Inc. or Dec.	% of Indty Sales	1952 Package Beer Sales	1953 Package Beer Sales	Inc. of Dec. Pkges.	% of Inc. or Dec.	% of Indty Sales	1952 Draught & Pkg.	1953 Draught & Pkg.	Perc. Inc. or Dec.	% of Indty Sales
Anheuser-Busch	8,801	8,137	(664)	(8%)	43%	81,543 372 Qts.	76,928 808 Qts. 7,992-36 oz.	3,813	5%	11%	14,756	14,306	(3%)	19%
Griese, Bros.	4,731	3,428	(1303)	(28%)	18%	172,419 4,359 Qts.	112,177 4,479 Qts.	(60,122)	(36%)	15%	17,668	12,003	(32%)	16%
Hyde Park	2,230	994	(1236)	(55%)	5%	35,491 1,644 Qts.	5,133 519 Qts.	(31,483)	(85%)	1%	4,965	1,416	(71%)	2%
Stag	3,259	3,026	(233)	(7%)	16%	411,238 11,622 Qts.	291,148 12,131 Qts. 2,740-36 oz.	(116,841)	(28%)	40%	34,233	25,505	(25%)	35%
Falstaff	3,985	3,037	(948)	(24%)	16%	244,082 180 Qts.	212,516 2,524 Qts.	(89,222)	(12%)	29%	21,719	18,705	(14%)	25%
Pabst		365	365		2%	7,205 1,535 Qts. 1,370- 36 oz.	10,115 885 Qts. 1,350-36 oz.	2,240	22%	2%	758	1,271	68%	2%
Schlitz						9,400 1,800 36 oz.	11,960 2,040-36 oz.	2,800	25%	2%	797	998	25%	1%
Total	23,006	18,987	(4019)	(17%)	100%	961,378 21,512 QT. 3,170 36- 7 oz.	719,977 21,346 QT. 14,122 36 7 oz.	(228,815)	(23%)	100%	94,896	74,204	(22%)	100%

(491)

Commission's Exhibit 46

1039

From:

Draught and Bottle Beer Sales—St. Louis & St. Louis County

April 14th, 1953

Jerry Walsh
St. Louis Branch

3.2% and 5%

February, 1953 - 1952

											BARREL EQUIVALENT			
	1952 D/B Bbls.	1953 D/B Bbls.	Inc. or Dec. Bbls.	% of Inc. or Dec.	% of Indty Sales	1952 Package Beer Sales	1953 Package Beer Sales	Inc. or Dec. Pkges.	% of Inc. or Dec.	% of Indty Sales	1952 Draught & Pkg.	1953 Draught & Pkg.	Perc. Inc. or Dec.	% of Indty Sales
Anheuser-Busch	8,609	8,453	(156)	(2%)	43%	60,789 219 Qts.	79,463 937 Qts.							
							8,527 7 oz.	27,919	46%	11%	13,042	14,853	14%	19%
Griese, Bros.	4,015	3,471	(544)	(14%)	18%	112,512 2,620 Qts.	117,768 5,009 Qts.	7,645	7%	16%	12,435	12,503	1%	16%
Hyde Park	1,792	952	(840)	(47%)	5%	20,427 889 Qts.	5,024 448 Qts.	(15,844)	(74%)	1%	3,361	1,361	(60%)	2%
Stag	2,966	3,140	174	6%	16%	276,154 7,849 Qts.	306,710 15,882 Qts.							
							3,309 7 oz.	41,898	15%	41%	23,771	27,148	14%	35%
Falstaff	3,360	3,153	(207)	(6%)	16%	169,943 132 Qts.	217,372 3,019 Qts.	50,316	30%	28%	15,708	19,222	22%	25%
Pabst		515	515		2%	5,595 541 Qts.	9,120 713 Qts.							
						1,055 7 oz.	1,870 7 oz.	4,512	63%	1%	525	1,365	260%	2%
Schlitz						7,150 2,000 7 oz.	13,080 200 Qts.							
							3,060 7 oz.	7,190	79%	2%	646	1,162	180%	1%
Total	20,742	19,684	(1058)	(5%)	100%	652,570 12,250 Qts. 3,055 7 oz.	748,537 26,208 Qts. 16,766 7 oz.	123,636	19%	100%	69,488	77,614	17%	100%

(492)

Commission's Exhibit 47

1040

From:

Jerry Walsh
St. Louis Branch

Draught and Bottle Beer Sales—St. Louis & St. Louis County

May 28th, 1953

3.2% and 5%

March, 1953 - 1952

	1952 D/B Bbls.	1953 D/B Bbls.	Inc. or Dec. Bbls.	% of Inc. or Dec.	% of Indty Sales	1952 Package Beer Sales	1953 Package Beer Sales	Inc. or Dec. Pkges.	% of Inc. or Dec.	% of Indty Sales	1952 Draught & Pkg.	1953 Draught & Pkg.	Perc. Inc. or Dec.	% of Indty Sales
Anheuser-Busch	8,179	9,369	1190	15%	43%	63,345 316 Qt.	87,402 1,114 Qt. 10,917 7 oz.	35,772	56%	11%	12,807	16,515	29%	19%
Giese, Bros.	4,133	3,787	(346)	(8%)	17%	133,088 3,236 Qt.	131,865 5,851 Qt.	1,392	1%	15%	14,106	13,925	(1%)	16%
Hyde Park	1,848	1,072	(776)	(42%)	5%	20,081 980 Qt.	5,348 543 Qt.	(15,170)	(72%)	1%	3,400	1,513	(56%)	2%
Stag	3,155	3,564	409	13%	17%	299,629 9,463 Qt.	347,759 20,139 Qt. 3,123 7 oz.	61,929	20%	41%	25,819	30,948	20%	35%
Falstaff	3,506	3,585	79	2%	17%	189,559 132 Qt.	248,631 3,565 Qt.	62,505	33%	28%	17,278	21,976	27%	25%
Pabst		365	365	100%	1%	5,661 835 Qt.	13,910 910 Qt.	8,384	101%	2%	607	1,582	161%	2%
Schlitz						1,815 7 oz. 6,350 2,000 7 oz.	1,875 7 oz. 12,660 200 Qt. 3,180 7 oz.	7,690	92%	2%	588	1,141	94%	1%
Total	20,821	21,742	921	4%	100%	717,713 14,962 Qt. 3,815 7 oz.	847,575 32,322 Qt. 19,095 7 oz.	162,502	22%	100%	74,605	87,600	17%	100%

Commission's Exhibit 48

From
Jerry Walsh
St. Louis Branch

Draught and Bottle Beer Sales—St. Louis & St. Louis County

June 10th, 1953

3.2% and 5%

April, 1953 - 1952

	1952 D/B Bbls.	1953 D/B Bbls.	Inc. or Dec. Bbls.	% of Inc. or Dec.	% of Indty Sales	1952 Package Beer Sales	1953 Package Beer Sales	Inc. or Dec. Pkges.	% of Inc. or Dec.	% of Indty Sales	1952 Draught & Pkg.	1953 Draught & Pkg.	Perc. Inc. or Dec.	% of Indty Sales
Anheuser-Busch	8,699	9,993	1294	15%	44%	91,044 568 Qts.	102,333 1,179 Qt. 13,842 7 oz.	25,742	28%	12%	15,362	18,413	20%	19%
Giese. Bros.	5,149	3,921	(1228)	(24%)	17%	183,185 5,023 Qt.	138,388 5,957 Qt.	(43,863)	(23%)	15%	18,931	14,542	(23%)	15%
Hyde Park	2,020	1,051	(969)	(48%)	5%	24,997 1,551 Qt.	5,503 583 Qt.	(20,462)	(77%)	1%	3,984	1,507	(62%)	2%
Stag	4,007	3,561	(446)	(11%)	16%	389,652 12,389 Qt. 8,249 7 oz.	371,099 18,437 Qt. 3,304 7 oz.	(17,450)	(4%)	40%	34,013	32,490	(4%)	35%
Falstaff	4,217	3,718	(499)	(12%)	16%	253,524 160 Qt.	268,991 4,008 Qt.	19,315	8%	28%	22,634	23,630	4%	25%
Pabst		450	450	100%	2%	6,045 1,166 Qt. 1,750 7 oz.	13,045 1,400 Qt. 1,930 7 oz.	7,414	8%	2%	663	1,655	150%	2%
Schlitz						13,845 2,925 7 oz.	19,207 200 Qt. 1,105 7 oz.	3,742	22%	2%	1,191	1,483	25%	2%
Total	24,092	22,694	(1398)	(6%)	100%	962,292 20,857 Qt. 12,924 7 oz.	918,566 31,764 Qt. 20,181 7 oz.	(25,562)	(3%)	100%	96,778	93,720	(3%)	100%

Commission's Exhibit 49

From
Jerry Walsh
St. Louis Branch

Draught and Bottle Beer Sales—St. Louis & St. Louis County
3.2% and 5%

May, 1953 - 1952

July 14th, 1953

	1952 D/B Bbls.	1953 D/B Bbls.	Inc. or Dec. Bbls.	% of Inc. or Dec.	% of Indty Sales	1952 Package Beer Sales	1953 Package Beer Sales	Inc. or Dec. Pkges.	% of Inc. or Dec.	% of Indty Sales	1952 Draught & Pkg.	1953 Draught & Pkg.	Perc. Inc. or Dec.	% of Indty Sales
Anheuser-Busch	9,719	10,745	1026	11%	44%	83,964 832 Qt. 383 7 oz.	124,327 1,633 Qt. 16,179 7 oz.	56,960	67%	13%	15,919	20,954	32%	20%
Griese. Bros.	5,195	4,181	(1014)	(19%)	17%	183,865 6,052 Qt.	157,316 7,127 Qt.	(25,474)	(13%)	15%	19,126	16,289	(15%)	15%
Hyde Park	1,941	1,103	(838)	(43%)	5%	27,446 1,580 Qt.	7,564 626 Qt.	(20,836)	(72%)	1%	4,086	1,713	(58%)	2%
Stag	4,314	3,764	(550)	(13%)	16%	430,509 19,142 Qt. 6,859 7 oz.	423,194 20,123 Qt. 3,762 7 oz.	(9,431)	(2%)	40%	37,850	36,666	(3%)	35%
Falstaff	4,303	3,967	(336)	(8%)	16%	275,870 1,292 Qt.	312,767 4,846 Qt.	40,451	15%	29%	24,452	27,136	11%	26%
Pabst	150	450	300	200%	2%	6,720 1,410 Qt. 1,000 7 oz.	13,060 1,070 Qt. 1,165 7 oz.	6,165	68%	1%	837	1,576	88%	1%
Schlitz						18,260 4,070 7 oz.	11,920	(10,410)	(47%)	1%	1,580	865	(45%)	1%
Total	25,622	24,210	(1412)	(6%)	100%	1,026,634 30,308 12,312	1,050,149 35,425 Qt. 21,106 7 oz.	37,425	4%	100%	103,850	105,199	1%	100%

Commission's Exhibit 50

Draught and Bottle Beer Sales—St. Louis & St. Louis County

August 20th, 1953

3.2% and 5%

June, 1953 - 1952

	3.2% and 5%					June, 1953 - 1952					BAPREL EQUIVALENT			
	1952 Dr. Br. Bbls.	1953 Dr. Br. Bbls.	Inc. or Dec. Bbls.	% of Inc. or Dec.	% of Indty Sales	1952 Package Beer Sales	1953 Package Beer Sales	Inc. or Dec. Pkges.	% of Inc. or Dec.	% of Indty Sales	1952 Draught & Pkg.	1953 Draught & Pkg.	Perc. Inc. or Dec.	% of Indty Sales
Anheuser-Busch	12,691	13,645	954	8%	45%	107,908 1,199 Qt. 2,161 7 oz.	148,890 1,895 Qts. 21,318 7 oz.	60,835	55%	12%	20,777	25,989	25%	20%
Griese. Bros.	5,428	4,861	(567)	(10%)	16%	211,008 7,546 Qt.	192,197 10,743 Qt.	(15,614)	(7%)	15%	21,474	19,850	(8%)	15%
Hyde Park	1,942	1,318	(624)	(32%)	4%	25,088 1,864 Qt.	8,557 581 Qt.	(17,814)	(66%)	1%	3,943	1,995	(49%)	1%
Stag	4,780	4,710	(70)	(1%)	16%	506,915 24,572 Qt. 9,581 7 oz.	547,503 30,499 Qt. 4,907 7 oz.	41,841	8%	42%	44,561	47,711	7%	36%
Falstaff	4,661	4,776	115	2%	16%	315,196 2,831 Qt.	394,774 6,808 Qt.	83,555	26%	29%	27,813	34,088	23%	26%
Pabst	312	815	503	16%	3%	10,425 1,720 Qt. 1,650 7 oz.	18,145 117 Qt. 150 7 oz.	4,617	33%	1%	1,340	2,153	161%	2%
Schlitz						21,640 2,940 7 oz.		(24,580)	(100%)		1,758			
Total	29,814	30,125	311	1%	100%	1,198,180 39,732 QT 16,332 7	1,310,066 50,643 QT 26,375 7	132,840	11%	100%	121,666	131,786	8%	100%

Commission's Exhibit 51

1044

Draught and Bottle Beer Sales—St. Louis & St. Louis County

Sept. 23rd, 1953

3.2% and 5%

July, 1953 - 1952

	3.2% and 5%					July, 1953 - 1952					BARREL EQUIVALENT			
	1952 Dr. Beer Bbls.	1953 Dr. Beer Bbls.	Inc. or Dec. Bbls.	% of Inc. or Dec.	% of Indty Sales	1952 Package Beer Sales	1953 Package Beer Sales	Inc. or Dec. Pkges.	% of Inc. or Dec.	% of Indty Sales	1952 Draught & Pkg.	1953 Draught & Pkg.	Perc. Inc. or Dec.	% of Indty Sales
Anheuser-Busch	13,743	13,449	(294)	(2%)	45%	122,422 1,315 Qt. 4,350 7 oz.	150,671 2,047 Qts. 24,262 7 oz.	48,893	38%	13%	23,033	26,124	13%	20%
Griese. Bros.	5,643	5,074	(569)	(10%)	17%	225,626 8,565 Qt.	199,726 11,872 Qt.	(22,593)	(10%)	15%	22,849	20,719	(9%)	16%
Hyde Park	1,956	1,443	(513)	(26%)	5%	23,506 1,919 Qt.	6,455 681 Qt.	(18,289)	(71%)	1%	3,848	1,977	(49%)	1%
Stag	5,054	4,814	(240)	(5%)	16%	516,892 26,709 Qt. 7,604 7 oz.	538,168 31,888 Qt. 4,155 7 oz.	23,006	4%	41%	45,640	47,225	3%	36%
Falstaff	4,996	4,918	(78)	(2%)	16%	342,467 3,892 Qt.	397,922 7,383 Qt.	58,946	17%	29%	30,231	34,514	14%	26%
Pabst	450	322	(128)	(28%)	1%	13,902 290 Qt. 575 7 oz.	7,320	(7,447)	(50%)	1%	1,523	853	(44%)	1%
Schlitz						16,015 2,620 7 oz.	900	(17,735)	(95%)		1,328	65	(95%)	
Total	31,842	30,020	(1822)	(6%)	100%	1,260,830 42,690 Qt. 15,149 7 oz.	1,301,162 53,871 Qt. 28,417 7 oz. 1,383,450 175	64,781	5%	100%	128,452	131,477	2%	100%
							1,208,450							

Commission's Exhibit 52

1045

Draught and Bottle Beer Sales—St. Louis & St. Louis County

October 20th, 1953

3.2% and 5%

August, 1953 - 1952

	3.2% and 5%					August, 1953 - 1952					BBLs. EQUIVALENT			
	1952 Dr. Beer Bbls.	1953 Dr. Beer Bbls.	Inc. or Dec. Bbls.	% of Inc. or Dec.	% of Indty Sales	1952 Package Beer Sales	1953 Package Beer Sales	Inc. or Dec. Pkges.	% of Inc. or Dec.	% of Indty Sales	1952 Draught & Pkg.	1953 Draught & Pkg.	Perc. Inc. or Dec.	% of Indty Sales
Anheuser-Busch	12,334	12,178	(156)	(1%)	47%	111,726 1,295 Qt. 5,498 7 oz.	137,089 2,276 Qt. 24,227 7 oz.	45,073	38%	15%	20,917	23,887	14%	22%
Griese, Bros.	5,346	3,999	(1347)	(25%)	15%	193,114 7,904 Qt.	141,478 9,629 Qt.	(49,911)	(25%)	13%	20,127	15,199	(24%)	14%
Hyde Park	1,750	1,061	(689)	(39%)	4%	17,037 1,596 Qt.	4,387 439 Qt.	(13,807)	(74%)	1%	3,147	1,422	(55%)	1%
Stag	4,849	3,922	(927)	(19%)	15%	434,815 24,188 Qt. 5,727 7 oz.	386,117 27,103 Qt. 4,342 7 oz.	(47,168)	(10%)	37%	39,112	34,845	(11%)	32%
Falstaff	4,505	4,292	(213)	(5%)	17%	300,626 3,938 Qt.	336,875 6,766 Qt.	39,077	13%	30%	26,705	29,397	10%	27%
Pabst	450	537	87	19%	2%	12,005 2,190 Qt. 1,545 7 oz.	27,286 1,215 Qt. 1,801 7 oz.	14,562	92%	3%	1,632	2,749	68%	2%
Schlitz						9,825 1,010 7 oz.	21,950 220 Qt. 2,250 7 oz.	13,585	125%	1%	777	1,757	126%	2%
Total	29,234	25,989	(3,245)	(11%)	100%	1,079,148 41,111 qt. 13,780 7 oz.	1,055,182 47,648 qt. 32,620 7 oz.	1,411	—	100%	112,411	109,256	(3%)	100%

Commission's Exhibit 53

1046

Draught and Bottle Beer Sales—St. Louis & St. Louis County

Nov. 12th, 1953

3.2% and 5%

September, 1953 - 1952

	1952 Dr. Beer Bbls.	1953 Dr. Beer Bbls.	Inc. or Dec. Bbls.	% of Inc. or Dec.	% of Indty Sales	1952 Package Beer Sales	1953 Package Beer Sales	Inc. or Dec. Pkges.	% of Inc. or Dec.	% of Indty Sales	BARREL EQUIVALENT			
											1952 Draught & Pkg.	1953 Draught & Pkg.	Perc. Inc. or Dec.	% of Indty Sales
Anheuser-Busch	11,346	11,680	334	3%	45%	93,716 1,174 Qt. 6,039 7 oz.	126,736 2,110 Qt. 24,038 7 oz.	51,955	51%	13%	18,645	22,610	21%	21%
Griese, Bros.	4,713	4,097	(616)	(13%)	16%	167,720 7,045 Qt.	148,966 9,776 Qt.	(16,023)	(9%)	14%	17,568	15,855	(10%)	14%
Hyde Park	1,450	1,062	(388)	(27%)	4%	13,479 1,210 Qt.	3,823 377 Qt.	(10,489)	(71%)	1%	2,545	1,376	(46%)	1%
Stag	4,215	4,368	153	4%	17%	393,489 23,329 Qt. 5,136 7 oz.	408,386 26,689 Qt. 4,066 7 oz.	17,187	4%	39%	23,358	36,850	4%	34%
Falstaff	4,392	4,263	(129)	(3%)	16%	273,343 3,766 Qt.	340,266 6,816 Qt.	69,973	25%	30%	24,595	29,619	20%	27%
Pabst	334	430	96	29%	2%	10,480 650 Qt. 950 7 oz.	14,210 1,285 Qt. 1,090 7 oz.	4,505	37%	1%	1,218	1,654	36%	2%
Schlitz						8,970 1,945 7 oz.	18,855 615 Qt. 1,225 7 oz.	9,780	90%	2%	774	1,506	95%	1%
Total	26,450	25,900	(550)	(2%)	100%	961,197 37,174 Qt. 14,070 7 oz.	1,061,242 47,668 Qt. 30,419 7 oz.	126,888	13%	100%	100,703	109,470	9%	100%

Commission's Exhibit 54

1047

Draught and Bottle Beer Sales—St. Louis & St. Louis County

Dec. 10th, 1953

3.2% and 5%

October, 1953 - 1952

	1952 Dr. Beer Bbls.	1953 Dr. Beer Sales	Inc. or Dec. Bbls.	% of Inc. or Dec.	% of Indty Sales	1952 Package Beer Sales	1953 Package Beer Sales	Inc. or Dec. Pkges.	% of Inc. or Dec.	% of Indty Sales	1952 Draught & Pkg.	1953 Draught & Pkg.	Perc. Inc. or Dec.	% of Indty Sales
Anheuser-Busch	11,157	10,822	(335)	(3%)	46%	97,663 1,118 Qt. 6,699 7 oz.	116,013 1,790 Qts. 24,644 7 oz.	36,967	35%	14%	18,779	20,980	12%	21%
Griese Bros.	4,593	3,791	(802)	(17%)	16%	157,934 6,568 Qt.	134,037 8,683 Qt.	(21,782)	(13%)	14%	16,691	14,359	(14%)	14%
Hyde Park	1,402	923	(479)	(34%)	4%	10,084 929 Qt.	2,830 288 Qt.	(7,895)	(72%)	—	2,224	1,157	(48%)	1%
Stag	4,175	3,542	(633)	(15%)	15%	373,929 16,856 Qt. 4,064 7 oz.	348,682 24,418 Qt. 3,265 7 oz.	(18,484)	(5%)	36%	33,204	31,420	(5%)	32%
Falstaff	4,269	4,012	(257)	(6%)	17%	269,320 3,655 Qt.	328,708 6,521 Qt.	62,254	23%	32%	24,170	28,501	18%	29%
Pabst	322	537	215	67%	2%	9,280 877 Qt. 1,625 7 oz.	8,455 290 Qt. 800 7 oz.	(2,237)	(19%)	1%	1,183	1,230	3%	1%
Schlitz						14,145 2,950 7 oz.	23,585 260 Qt. 2,115 7 oz.	8,865	52%	3%	1,214	1,871	54%	2%
	25,918	23,627	(2,291)	(9%)	100%	932,355 30,003 Qt. 15,338 7 oz.	962,310 42,250 Qt. 30,824 7 oz.	57,688	6%	100%	97,465	99,518	2%	100%

Commission's Exhibit 55

1048

Draught and Bottle Beer Sales—St. Louis & St. Louis County

Jan. 29, 1954

3.2% and 5%

November, 1953 - 1952

	1952 Dr. Beer Bbls.	1953 Dr. Beer Sales	Inc. or Dec. Bbls.	% of Inc. or Dec.	% of Indty Sales	1952 Package Beer Sales	1953 Package Beer Sales	Inc. or Dec. Pkges.	% of Inc. or Dec.	% of Indty Sales	1952 Draught & Pkg.	1953 Draught & Pkg.	Perc. Inc. or Dec.	% of Indty Sales
Anheuser-Busch		9,253	315	4%	46%		91,614 1,328 Qts. 20,075 7 oz.	17,447	18%	13%		17,306	9%	21%
Griese. Bros.	3,795	3,273	(522)	(14%)	16%	133,405 5,416 Qt.	117,496 7,129 Qt.	(14,196)	(10%)	15%	14,001	12,491	(8%)	15%
Falstaff	3,446	3,391	(55)	(2%)	17%	234,888 3,116 Qt.	284,750 5,054 Qt.	51,800	22%	34%	20,795	24,547	18%	30%
Hyde Park	1,097	808	(289)	(26%)	4%	8,269 809 Qt.	2,615 230 Qt.	(6,233)	(69%)	—	1,775	1,021	(42%)	1%
Stag	3,285	3,025	(260)	(8%)	15%	328,207 16,945 Qt.	288,466 16,037 Qt.	(40,603)	(12%)	36%	28,940	25,711	(11%)	3%
Pabst	317	322	5	2%	2%	3,052 7 oz. 6,345 50 Qt.	3,098 7 oz. 8,955 600 Qt.	2,510	34%	1%	850	1,057	24%	1%
Schlitz						1,075 7 oz. 6,810 200 Qt. 2,040 7 oz.	425 7 oz. 5,750 1,200 7 oz.	(2,100)	(23%)	1%	643	493	(23%)	1%
	20,878	20,072	(806)	(4%)	100%	805,573 27,708 Qt. 12,916 7 oz.	799,646 30,378 Qt. 24,798 7 oz.	8,625	1%	100%	82,847	82,626	—	100%

Commission's Exhibit 56

1049

Draught and Bottle Beer Sales—St. Louis & St. Louis County

Feb. 15th, 1954

3.2% and 5%

December, 1953 - 1952

	1952 Dr. Beer Bbls.	1953 Dr. Beer Sales	Inc. or Dec. Bbls.	% of Inc. or Dec.	% of Indty Sales	1952 Package Beer Sales	1953 Package Beer Sales	Inc. or Dec. Pkges.	% of Inc. or Dec.	% of Indty Sales	1952 Draught & Pkg.	1953 Draught & Pkg.	Perc. Inc. or Dec.	% of Indty Sales
Anheuser-Busch	10,108	10,029	(79)	(1%)	46%	102,194 1,030 Qt. 8,255 7 oz.	117,683 1,397 Qt. 24,157 7 oz.	31,758	28%	14%	18,149	20,239	12%	21%
Griese. Bros.	4,268	3,463	(805)	(19%)	16%	161,459 5,908 Qt.	137,372 7,685 Qt.	(22,310)	(13%)	14%	16,558	14,177	(14%)	15%
Falstaff	3,875	3,686	(189)	(5%)	17%	286,223 3,357 Qt.	343,634 5,569 Qt. 825 7 oz.	60,448	21%	34%	24,973	29,219	17%	30%
Stag	3,668	3,334	(334)	(9%)	15%	387,491 16,158 Qt. 3,337 7 oz.	360,045 19,010 Qt. 2,944 7 oz.	(24,987)	(6%)	36%	33,568	31,493	(6%)	32%
Hyde Park	1,209	816	(393)	(33%)	4%	8,640 680 Qt.	2,530 178 Qt.	(6,612)	(71%)	—	1,902	1,017	(47%)	1%
Pabst	473	537	64	14%	2%	8,970 515 Qt. 950 7 oz.	6,640 390 Qt. 575 7 oz.	(2,830)	(27%)	1%	1,235	1,093	(11%)	1%
Schlitz						13,720 1,940 7 oz.	5,220 40 Qt. 1,010 7 oz.	(9,390)	(60%)	1%	1,118	447	(60%)	—
Total	23,601	21,865	(1,736)	(7%)	100%	968,697 27,648 Qt. 14,482 7 oz.	973,124 34,269 Qt. 29,511 7 oz.	26,077	3%	—	97,503	97,685	—	100%

Commission's Exhibit 57

1050

From:
Jerry Walsh
St. Louis Branch

Draught and Bottle Beer Sales—St. Louis & St. Louis County

March 10th, 1954

(3.2% and 5%)

January, 1954 - 1953

	1953 D/B Bbls.	1954 D/B Bbls.	Inc. or Dec. Bbls.	% of Inc. or Dec.	% of Indty Sales	1953 Package Beer Sales	1954 Package Beer Sales	Inc. or Dec. Pkges.	% of Inc. or Dec.	% of Indty Sales	1953 Draught & Pkg.	1954 Draught & Pkg.	Perc. Inc. or Dec.	% of Indty Sales
Anheuser-Busch	8,137	7,815	(322)	(4%)	46%	76,928 808 Qts. 7,992 7 oz.	85,734 1,120 Qt. 20,428 7 oz.	21,554	25%	15%	14,306	15,443	1,137	21%
Griese. Bros.	3,428	2,719	(709)	(21%)	16%	112,177 4,479 Qt.	93,614 5,879 Qt.	(17,163)	(15%)	13%	12,003	10,083	(1,920)	14%
Hyde Park	994	680	(314)	(32%)	4%	5,133 519 Qt.	1,534 116 Qt.	(4,002)	(71%)	—	1,416	802	(614)	1%
Stag	3,026	2,630	(396)	(13%)	15%	291,148 12,131 Qt. 2,740 7 oz.	255,344 14,304 Qt. 2,691 7 oz.	(33,680)	(11%)	36%	25,505	22,718	(2,787)	32%
Falstaff	3,037	2,933	(104)	(3%)	17%	212,516 2,524 Qt.	245,662 4,168 Qt. 881 7 oz.	35,671	17%	34%	18,705	21,222	2,517	29%
Pabst	365	379	14	4%	2%	10,115 885 Qt.	8,770 400 Qt.	(2,755)	(22%)	1%	1,271	1,081	(190)	2%
Schlitz						1,350 7 oz. 11,960 2,040 7 oz.	425 7 oz. 7,665 150 Qt. 1,060 7 oz.	(5,125)	(37%)	1%	998	638	(360)	1%
Total	18,987	17,156	(1831)	(10%)	100%	719,977 21,346 Qt. 14,122	698,323 26,137 Qt. 25,485 7 oz.	(5,500)	(1%)	100%	74,204	71,987	(2,217)	100%

Commission's Exhibit 58

1051

From:

Draught and Bottle Beer Sales—St. Louis & St. Louis County

April 1st, 1954

Jerry Walsh
City Sales Dept.

3.2% and 5%

February, 1954 - 1953

	1953 D/B Bbls.	1954 D/B Bbls.	Inc. or Dec. Bbls.	% of Inc. or Dec.	% of Indty Sales	1953 Package Beer Sales	1954 Package Beer Sales	Inc. or Dec. Pkges.	% of Inc. or Dec.	% of Indty Sales	BARREL EQUIVALENT			
											1953 Draught & Pkg.	1954 Draught & Pkg.	Perc. Inc. or Dec.	% of Indty Sales
Anheuser-Busch	8,453	8,588	135	2%	47%	79,463 937 Qts. 8,527 7 oz.	98,163 1,454 Qts. 22,003 7 oz.	32,693	37%	15%	14,853	17,250	16%	22%
Grise, Bros.	3,471	2,865	(606)	(17%)	16%	117,768 5,009 Qts.	100,346 6,804 Qts.	(15,627)	(13%)	13%	12,503	10,806	(14%)	14%
Hyde Park	952	703	(249)	(26%)	4%	5,024 448 Qt.	1,435 70 Qts.	(3,967)	(72%)		1,361	814	(40%)	1%
Mac	3,140	2,819	(321)	(10%)	15%	306,710 15,882 Qt. 3,309 7 oz.	271,426 16,880 Qt. 2,565 7 oz.	(35,030)	(11%)	36%	27,148	24,315	(10%)	31%
Fabell	3,153	3,156	3	—	17%	217,372 3,019 Qt.	273,809 4,954 Qt. 1,096 7 oz.	59,468	27%	34%	19,222	23,578	23%	30%
Pabst	515	295	(220)	(43%)	1%	9,120 713 Qt.	4,815 400 Qt.	(5,898)	(50%)	1%	1,365	720	(47%)	1%
Schlitz						1,870 7 oz. 13,080 200 Qt.	590 7 oz. 6,860 20 Qt.	(8,390)	(51%)	1%	1,162	569	(51%)	1%
Total	19,684	18,426	(1258)	(6%)	100%	748,537 26,208 Qt. 16,766 7 oz.	756,854 30,582 Qt. 27,324 7 oz.	23,249	3%	100%	77,614	78,052	—	100%

Commission's Exhibit 59

From:
Jerry Walsh
City Sales Dept.

Draught and Bottle Beer Sales—St. Louis & St. Louis County
3.2% and 5%

March, 1954 - 1953

May 10th, 1954

	1953 D/B Bbls.	1954 D/B Bbls.	Inc. or Dec. Bbls.	% of Inc. or Dec.	% of Indty Sales	1953 Package Beer Sales	1954 Package Beer Sales	Inc. or Dec. Pkges.	% of Inc. or Dec.	% of Indty Sales	1953 Draught & Pkg.	1954 Draught & Pkg.	Perc. Inc. or Dec.	% of Indty Sales
Anheuser-Busch	9,369	9,499	130	1%	46%	87,402 1,114 Qt. 10,917 7 oz.	104,573 1,613 Qts. 23,677 7 oz.	30,430	31%	14%	16,515	18,750	14%	21%
Griese. Bros.	3,787	3,115	(672)	(18%)	15%	131,865 5,851 Qt.	114,729 8,823 Qt.	(14,164)	(10%)	13%	13,925	12,296	(12%)	14%
Hyde Park	1,072	738	(334)	(31%)	4%	5,348 543 Qt.	1,780 115 Qt.	(3,996)	(68%)		1,513	878	(42%)	1%
Stag	3,564	3,323	(241)	(7%)	16%	347,759 20,139 Qt. 3,123 7 oz.	312,210 20,938 Qt. 3,280 7 oz.	(34,593)	(9%)	37%	30,948	28,219	(9%)	32%
Falstaff	3,585	3,521	(64)	(2%)	17%	248,631 3,565 Qt.	305,210 6,047 Qt. 1,340 7 oz.	60,401	24%	34%	21,976	26,343	20%	30%
Pabst	365	418	53	15%	2%	13,910 910 Qt. 1,875 7 oz.	7,686 600 Qt. 800 7 oz.	(7,609)	(46%)	1%	1,582	1,084	(31%)	1%
Schlitz						12,660 200 Qt. 3,180 7 oz.	10,559 170 Qt. 1,090 7 oz.	(4,221)	(26%)	1%	1,141	852	(25%)	1%
Total	21,742	20,614	(1128)	(5%)	100%	847,575 32,322 Qt. 19,095 7 oz.	856,747 38,306 Qt. 30,187 7 oz.	26,248	3%	100%	87,600	88,422	1%	100%

Commission's Exhibit 60

1053

From
Jerry Walsh
City Sales Dept.

Draught and Bottle Beer Sales—St. Louis & St. Louis County

June 11th, 1954

3.2% and 5%

April, 1954 - 1953

	1953 D/B Bbls.	1954 D/B Bbls.	Inc. or Dec. Bbls.	% of Inc. or Dec.	% of Indty Sales	1953 Package Beer Sales	1954 Package Beer Sales	Inc. or Dec. Pkges.	% of Inc. or Dec.	% of Indty Sales	1953 'Draught & Pkg.	1954 'Draught & Pkg.	Perc. Inc. or Dec.	% of Indty Sales
Anheuser-Busch	9,993	10,405	412	4%	47%	102,333 1,179 Qt. 13,842 7 oz.	135,804 2,106 Qts. 27,943 7 oz.	48,499	41%	16%	18,413	22,240	21%	23%
Griese, Bros.	3,921	3,304	(617)	(16%)	15%	138,388 5,957 Qt.	134,410 8,000 Qt.	(1,935)	(1%)	14%	14,542	13,834	(5%)	14%
Hyde Park	1,051	704	(347)	(33%)	3%	5,503 583 Qt.	1,471 115 Qt.	(4,500)	(74%)	—	1,507	822	(45%)	1%
Stag	3,561	3,649	88	2%	16%	371,099 18,437 Qt. 3,304 7 oz.	325,005 22,849 Qt. 2,855 7 oz.	(42,131)	(11%)	34%	32,490	29,630	(9%)	30%
Falstaff	3,718	3,674	(44)	(1%)	17%	268,991 4,008 Qt.	340,368 7,106 Qt. 1,541 7 oz.	76,016	28%	34%	23,630	29,164	23%	30%
Pabst	450	462	12	3%	2%	13,045 1,400 Qt. 1,930 7 oz.	10,430 750 Qt. 1,025 7 oz.	(4,170)	(25%)	1%	1,655	1,357	(18%)	1%
Schlitz						19,207 200 Qt. 1,105 7 oz.	8,500 170 Qt. 2,100 7 oz.	(9,742)	(47%)	1%	1,483	766	(48%)	1%
Total	22,694	22,198	(496)	(2%)	100%	918,566 31,764 Qt. 20,181 7 oz.	955,988 41,096 Qt. 35,464 7 oz.	62,037	6%	100%	93,720	97,813	4%	100%

Commission's Exhibit 61

1054

From

Draught and Bottle Beer Sales—St. Louis & St. Louis County

July 13th, 1954

Jerry Walsh
St. Louis Branch

3.2% and 5%

May, 1954 - 1953

	3.2% and 5%						May, 1954 - 1953						BARREL EQUIVALENT			
	1953 D/B Bbls.	1954 D/B Bbls.	Inc. or Dec. Bbls.	% of Inc. or Dec.	% of Indty Sales	1953 Package Beer Sales	1954 Package Beer Sales	Inc. or Dec. Pkges.	% of Inc. or Dec.	% of Indty Sales	1953 Draught & Pkg.	1954 Draught & Pkg.	Perc. Inc. or Dec.	% of Indty Sales		
Anheuser-Busch	10,745	9,878	(867)	(8%)	47%	124,327 1,633 Qts. 16,179 7 oz.	136,452 2,182 Qts. 26,892 7 oz.	23,387	14%	16%	20,954	21,701	4%	23%		
Griesel. Bros.	4,181	3,059	(1122)	(27%)	14%	157,316 7,127 Qts.	129,164 8,649 Qts.	(26,630)	(16%)	14%	16,289	13,271	(19%)	14%		
Hyde Park	1,103	574	(529)	(48%)	3%	7,564 626 Qts.	1,757 88 Qts.	(6,345)	(77%)		1,713	710	(59%)	1%		
Stag	3,764	3,627	(137)	(4%)	17%	423,194 20,123 Qts. 3,762 7 oz.	320,208 21,941 Qts. 3,219 7 oz.	(101,711)	(23%)	34%	36,666	29,195	(20%)	30%		
Falstaff	3,967	3,532	(435)	(11%)	17%	312,767 4,846 Qts.	338,068 6,915 Qts. 1,521 7 oz.	28,891	9%	34%	27,136	28,835	6%	30%		
Pabst	450	538	88	20%	2%	13,060 1,070 Qts. 1,165 7 oz.	13,250 800 Qts. 1,050 7 oz.	(195)	(1%)	1%	1,576	1,644	4%	1%		
Schlitz						11,920 160 Qts. 200 7 oz.	13,625 160 Qts. 200 7 oz.	2,065	17%	1%	865	1,017	18%	1%		
Total	24,210	21,208	(3002)	(12%)	100%	1,050,148 35,425 Qts. 21,106 7 oz.	952,524 40,735 Qts. 32,882 7 oz.	(80,538)	(7%)	100%	105,199	96,373	(8%)	100%		

Commission's Exhibit 62

From

Jerry Walsh
St. Louis Branch

Draught and Bottle Beer Sales—St. Louis & St. Louis County

August 13th, 1954

3.2% and 5%

June, 1954 - 1953

	1953 D/B Bbls.	1954 D/B Bbls.	Inc. or Dec. Bbls.	% of Inc. or Dec.	% of Indty Sales	1953 Package Beer Sales	1954 Package Beer Sales	Inc. or Dec. Pkges.	% of Inc. or Dec.	% of Indty Sales	1953 Draught & Pkg.	1954 Draught & Pkg.	Perc. Inc. or Dec.	% of Indty Sales
Anheuser-Busch	13,645	12,283	(1362)	(10%)	48%	148,890 1,895 Qts. 21,318 7 oz.	282,476 6,598 Qts. 31,053 7 oz.	148,024	86%	24%	25,989	35,396	9,407 36%	28%
Griese. Bros.	4,861	3,384	(1477)	(30%)	13%	192,197 10,743 Qts.	147,291 10,807 Qts.	(44,842)	(22%)	12%	19,850	15,120	(4,730) (24%)	12%
Hyde Park	1,318	647	(671)	(51%)	3%	8,557 581 Qts.	1,458 74 Qts.	(7,606)	(83%)		1,995	760	(1,235) (62%)	1%
Stag	4,710	4,343	(367)	(8%)	17%	547,503 30,499 Qts. 4,907 7 oz.	378,958 29,112 Qts. 4,677 7 oz.	(170,162)	(29%)	30%	47,711	34,963	(12,748) (27%)	28%
Falstaff	4,776	4,208	(568)	(12%)	17%	394,774 6,808 Qts.	408,663 9,309 Qts. 1,766 7 oz.	18,156	5%	31%	34,088	34,882	794 2%	28%
Pabst	815	537	(278)	(34%)	2%	18,145 117 Qts. 150 7 oz.	25,760 700 Qts. 525 7 oz.	8,574	47%	2%	2,153	2,508	355 16%	2%
Schlitz							13,555 280 Qts. 1,980 7 oz.	15,815	100%	1%		1,136	1,136 100%	1%
Total	30,125	25,402	(4723)	(16%)	100%	1,310,066 50,643 Qt. 26,375 7 oz.	1,258,161 56,880 Qt. 40,001 7 oz.	(32,042)	(2%)	100%	131,786	124,765	(7,021) (5%)	100%

Commission's Exhibit 63

1056

From
Jerry Walsh
St. Louis Branch

Draught and Bottle Beer Sales—St. Louis & St. Louis County

Sept. 20th, 1954

3.2% and 5%

July, 1954 - 1953

	1953 D/B Bbls.	1954 D/B Bbls.	Inc. or Dec. Bbls.	% of Inc. or Dec.	% of Indty Sales	1953 Package Beer Sales	1954 Package Beer Sales	Inc. or Dec. Pkges.	% of Inc. or Dec.	% of Indty Sales	1953 Draught & Pkg.	1954 Draught & Pkg.	Perc. Inc. or Dec.	% of Indty Sales
Anheuser-Busch	13,499	12,604	(845)	(6%)	50%	150,671 2,047 Qts. 24,262 7 oz.	493,951 19,864 Qts. 28,964 7 oz.	365,799	207%	40%	26,124	52,217	200%	42%
Griese Bros.	5,074	3,294	(1780)	(35%)	13%	111,872 Qts.	111,491	(91,397)	(43%)	9%	20,719	12,230	(41%)	10%
Hyde Park	1,443	635	(808)	(56%)	2%	6,455 681 Qts.	8,710 Qts.	(6,096)	(85%)		1,977	713	(64%)	1%
Stag	4,814	3,708	(1106)	(23%)	15%	538,168 31,888 Qts. 4,155 7 oz.	223,877 21,721 Qts. 2,800 7 oz.	(325,813)	(57%)	19%	47,225	22,237	(53%)	18%
Falstaff	4,918	4,392	(526)	(11%)	17%	397,922 7,383 Qts.	361,667 8,193 Qts.	(33,515)	(8%)	28%	34,514	31,556	(9%)	25%
Pabst	322	742	420	130%	3%	7,320	40,934 2,300 Qts. 425 7 oz.	36,339	496%	3%	853	3,962	464%	3%
Schlitz						900	14,470 230 Qts. 1,045 7 oz.	14,845	1649%	1%	65	1,138	1650%	1%
Total	30,020	25,373	(4645)	(15%)	100%	1,301,162 53,871 Qts. 28,417 7 oz.	1,247,379 61,069 Qts. 35,164 7 oz.	(39,838)	(3%)	100%	131,477	124,053	(6%)	100%

Commission's Exhibit 64

1057

From
Jerry Walsh
City Sales Dept.

Draught and Bottle Beer Sales—St. Louis & St. Louis County

October 11th, 1954

= 3.2% and 5%

August, 1954 - 1953

	1953 D/B Bbls.	1954 D/B Bbls.	Inc. or Dec. Bbls.	% of Inc. or Dec.	% of Indty Sales	1953 Package Beer Sales	1954 Package Beer Sales	Inc. or Dec. Pkges.	% of Inc. or Dec.	% of Indty Sales	1953 Draught & Pkg.	1954 Draught & Pkg.	Perc. Inc. or Dec.	% of Indty Sales
Anheuser-Busch	12,178	11,432	(746)	(6%)	49%	137,089 2,276 Qt. 24,227 7 oz.	429,716 20,604 Qts. 25,577 7 oz.	312,305	191%	38%	23,887	46,239	94%	40%
Griese, Bros.	3,999	2,937	(1062)	(27%)	13%	141,478 9,629 Qt.	94,833 6,848 Qt.	(49,426)	(33%)	8%	15,199	10,483	(31%)	9%
Hyde Park	1,061	524	(537)	(51%)	2%	4,387 439 Qt.	637 5 Qts.	(4,184)	(87%)		1,422	570	(60%)	1%
Stag	3,922	3,848	(74)	(2%)	17%	386,117 27,103 Qt. 4,342 7 oz.	257,660 19,678 Qt. 2,768 7 oz.	(137,456)	(33%)	22%	34,845	24,629	(29%)	21%
Falstaff	4,292	3,868	(424)	(10%)	17%	336,875 6,766 Qt.	324,177 6,996 Qt. 1,723 7 oz.	(10,745)	(3%)	27%	29,397	28,183	(4%)	25%
Pabst	537	472	(65)	(12%)	2%	27,286 1,215 Qt. 1,801 7 oz.	42,015 1,900 Qt. 500 7 oz.	14,113	47%	4%	2,749	3,737	36%	3%
Schlitz						21,950 220 Qt. 2,250 7 oz.	9,105 250 Qt. 1,040 7 oz.	(14,025)	(57%)	1%	1,757	752	(57%)	1%
Total	25,989	23,081	(2,908)	(11%)	100%	1,055,182 47,648 Qt. 32,620 7 oz.	1,158,143 56,281 Qt. 31,608 7 oz.	110,582	10%	100%	109,256	114,593	5%	100%

Commission's Exhibit 65-A

BEER SALES IN ST. LOUIS AND ST. LOUIS COUNTY IN BARRELS

	January	February	March	April	May	June	July	August	September	October	November	December	Total
C.R. BUSCH													
1953	6,152	6,399	7,144	8,420	10,209	12,343	12,674	11,708	10,929	10,158	8,052	10,210	114,398
1954	7,628	8,662	9,249	11,834	11,822	23,112	39,611	34,806	33,499	27,402	24,506	30,764	
1953	8,137	8,454	9,369	9,993	10,745	13,645	13,449	12,178	11,680	10,821	9,254	10,029	127,754
1954	7,815	8,588	9,499	10,405	9,878	12,283	12,603	11,432	10,789	9,735	8,908	9,313	
1953	14,289	14,853	16,513	18,413	20,954	25,988	26,123	23,886	22,609	20,979	17,306	20,239	242,152
1954	15,443	17,250	18,748	22,239	21,700	35,395	52,214	46,238	44,288	37,137	33,414	40,077	
P													
1953	15,669	16,069	18,391	19,911	22,861	28,259	28,535	24,228	25,356	24,489	21,156	25,532	270,456
1954	18,290	20,422	22,823	25,489	25,303	30,674	27,165	24,315	23,859	21,532	21,087	23,692	
1953	3,037	3,153	3,585	3,718	3,967	4,777	4,919	4,292	4,264	4,012	3,391	3,686	46,801
1954	2,933	3,157	3,521	3,674	3,532	4,207	4,392	3,869	3,693	3,286	3,089	3,100	
1953	18,706	19,222	21,976	23,629	26,828	33,036	33,454	28,520	29,620	28,501	24,547	29,218	317,257
1954	21,223	23,579	26,344	29,163	28,835	34,881	31,557	28,184	27,552	24,818	24,176	26,792	
1953	8,575	9,032	10,137	10,620	12,108	14,989	15,645	11,200	11,758	10,569	9,218	10,714	134,565
1954	7,363	7,942	9,181	10,529	10,211	11,737	8,934	7,546	7,130	6,049	6,406	7,173	
1953	3,428	3,471	3,787	3,922	4,181	4,861	5,074	3,999	4,097	3,791	3,273	3,463	47,347
1954	2,719	2,865	3,115	3,305	3,059	3,384	3,294	2,937	2,736	2,367	2,154	2,166	
1953	12,003	12,503	13,924	14,542	16,289	19,850	20,719	15,199	15,855	14,360	12,491	14,177	181,912
1954	10,082	10,807	12,296	13,834	13,270	15,121	12,228	10,483	9,866	8,416	8,560	9,339	
1953	22,901	24,416	27,828	29,384	33,511	43,678	42,945	31,284	32,796	28,111	22,898	28,359	368,111
1954	20,211	21,607	25,035	26,099	25,704	30,732	18,604	20,828	19,299	17,497	16,564	17,724	
1953	4,021	4,093	4,636	4,612	4,868	6,028	6,254	4,983	5,431	4,465	3,833	4,150	57,374
1954	3,310	3,522	4,061	4,352	4,201	4,991	4,343	4,372	4,275	3,641	3,437	3,431	
1953	26,922	28,509	32,464	33,996	38,379	49,706	49,199	36,267	38,227	32,576	26,731	32,509	425,485
1954	23,521	25,129	29,096	30,451	29,905	35,723	22,947	25,200	23,574	21,138	20,001	21,155	

Commission's Exhibit 65-B

BEER SALES IN ST. LOUIS AND ST. LOUIS COUNTY IN BARRELS

		January	February	March	April	May	June	July	August	September	October	November	December	Total
ANHEUSER-BUSCH														
Pkge.	1951	4,592	4,440	5,357	5,501	7,231	7,071	6,972	7,849	6,172	5,333	5,321	5,488	71,327
	1952	5,954	4,433	4,628	6,663	6,199	8,085	9,289	8,583	7,299	7,622	6,903	8,041	83,699
Dr.	1951	8,915	7,997	9,552	9,419	11,307	10,952	11,311	11,849	9,685	8,701	8,741	8,476	116,905
	1952	8,801	8,609	8,179	8,699	9,718	12,691	13,743	12,334	11,346	11,156	8,938	10,107	124,321
Total	1951	13,507	12,437	14,909	14,920	18,538	18,023	18,283	19,698	15,857	14,034	14,062	13,964	188,232
	1952	14,755	13,042	12,807	15,362	15,917	20,776	23,032	20,917	18,645	18,778	15,841	18,148	208,020
FALSTAFF														
Pkge.	1951	15,656	14,451	16,554	16,089	19,373	19,487	20,197	21,552	16,630	18,388	17,175	15,101	210,653
	1952	17,733	12,347	13,771	18,416	20,148	23,151	25,233	22,200	20,204	19,974	17,350	21,098	231,625
Dr.	1951	3,611	3,328	3,823	3,858	4,550	4,481	4,744	4,901	3,965	4,341	3,906	3,599	49,107
	1952	3,985	3,360	3,506	4,217	4,303	4,662	4,996	4,505	4,393	4,270	3,446	3,875	49,518
Total	1951	19,267	17,779	20,377	19,947	23,923	23,968	24,941	26,453	20,595	22,729	21,081	18,700	259,760
	1952	21,718	15,707	17,277	22,633	24,451	27,813	30,229	26,705	24,597	24,244	20,796	24,973	281,143
G. B.														
Pkge.	1951	10,411	10,205	11,443	11,488	14,630	13,980	14,803	16,192	12,439	13,093	12,162	10,766	151,612
	1952	12,936	8,421	9,974	13,783	13,932	16,045	17,205	14,781	12,855	12,100	10,207	12,291	154,530
Dr.	1951	4,472	4,176	4,803	4,805	5,521	5,428	5,534	5,996	4,872	5,246	4,513	4,173	59,539
	1952	4,731	4,015	4,133	5,149	5,195	5,428	5,643	5,346	4,713	4,593	3,796	4,268	57,010
Total	1951	14,883	14,381	16,246	16,293	20,151	19,408	20,337	22,188	17,311	18,339	16,675	14,939	211,151
	1952	17,667	12,436	14,107	18,932	19,127	21,473	22,848	20,127	17,568	16,693	14,003	16,559	211,540
G. W.														
Pkge.	1951	26,409	25,798	30,049	29,060	45,712	45,949	44,501	45,001	32,757	35,923	30,408	28,130	419,700
	1952	33,707	22,372	24,215	31,968	35,679	41,779	42,475	35,654	32,239	29,851	26,333	30,594	386,866
Dr.	1951	5,141	4,772	5,570	5,376	6,410	6,533	6,981	7,003	5,605	5,452	5,276	5,043	69,162
	1952	5,490	4,759	5,003	6,027	6,256	6,723	7,010	6,599	5,666	5,577	4,382	4,877	68,369
Total	1951	31,550	30,570	35,619	34,436	52,122	52,482	51,485	52,004	38,362	41,375	35,684	33,173	488,862
	1952	39,197	27,131	29,218	37,995	41,935	48,502	49,485	42,253	37,905	35,428	30,715	35,471	455,235

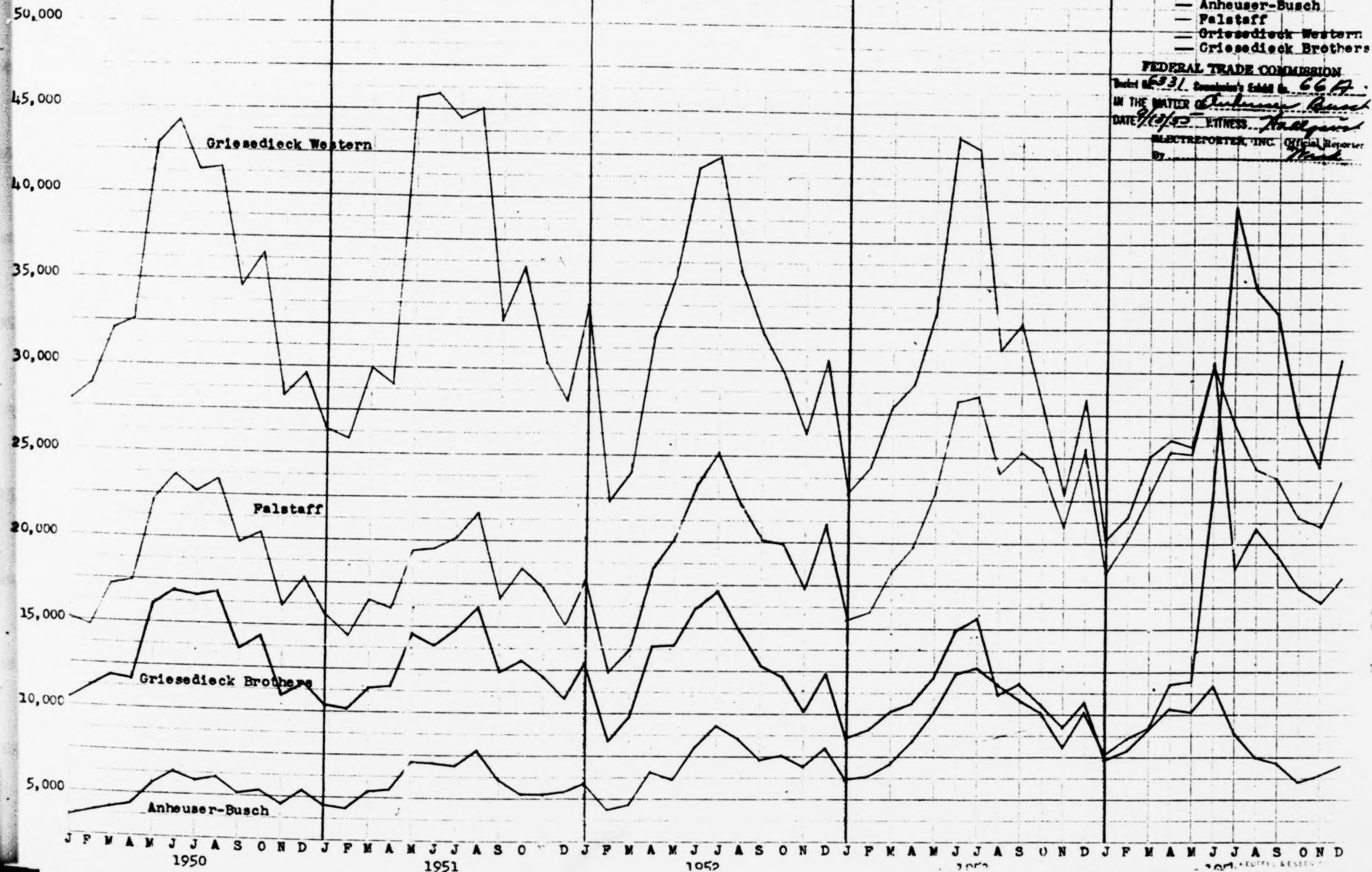
(512-A)

Commission's Exhibit 65-C**BEER SALES IN ST. LOUIS AND ST. LOUIS COUNTY IN BARRELS**

		<i>January</i>	<i>February</i>	<i>March</i>	<i>April</i>	<i>May</i>	<i>June</i>	<i>July</i>	<i>August</i>	<i>September</i>	<i>October</i>	<i>November</i>	<i>December</i>	<i>Total</i>
ANHEUSER-BUSCH														
Pkge.	1949													
Dr.	1950	3,507	3,860	4,206	4,449	5,683	6,346	5,798	6,165	5,151	5,329	4,594	5,418	60,506
	1949													
	1950	7,348	7,536	8,465	7,889	10,112	10,438	9,996	10,077	8,896	9,268	9,021	8,836	107,882
Total	1949													
	1950	10,855	11,396	12,671	12,338	15,795	16,784	15,794	16,242	14,047	14,597	13,615	14,254	168,388
FALSTAFF														
Pkge.	1949													
Dr.	1950	15,107	14,723	17,118	17,424	22,152	23,657	22,748	23,445	19,750	20,281	16,150	17,781	230,336
	1949													
	1950	3,670	3,687	4,041	3,676	4,559	4,389	4,321	4,261	3,759	3,936	3,764	3,596	47,659
Total	1949													
	1950	18,777	18,410	21,159	21,100	26,711	28,046	27,069	27,706	23,509	24,217	19,914	21,377	277,995
G. B.														
Pkge.	1949													
Dr.	1950	10,490	11,179	11,847	11,717	15,850	16,811	16,693	16,877	13,664	14,277	10,937	11,695	162,037
	1949													
	1950	4,219	4,346	4,808	4,398	5,588	5,650	5,445	5,252	4,754	4,854	4,617	4,504	58,435
Total	1949													
	1950	14,709	15,525	16,655	16,115	21,438	22,461	22,138	22,129	18,418	19,131	15,554	16,199	220,472
G. W.														
Pkge.	1949													
Dr.	1950	27,833	28,945	32,006	32,635	42,809	44,274	41,492	41,556	34,624	36,594	28,266	29,645	420,679
	1949													
	1950	4,636	4,693	5,316	4,861	6,291	6,719	6,405	6,363	5,603	5,706	5,348	5,239	67,180
Total	1949													
	1950	32,469	33,638	37,322	37,496	49,100	50,993	47,897	47,919	40,227	42,300	33,614	34,884	487,859

Package Beer Sales in City of St. Louis and St. Louis County. Years 1950 - 1954

(BARRELS)



FEDERAL TRADE COMMISSION

District of Columbia, Commission's Exhibit No. 66-A

IN THE MATTER OF *Anheuser-Busch*DATE *9/13/55* WITNESS *Hallgren*

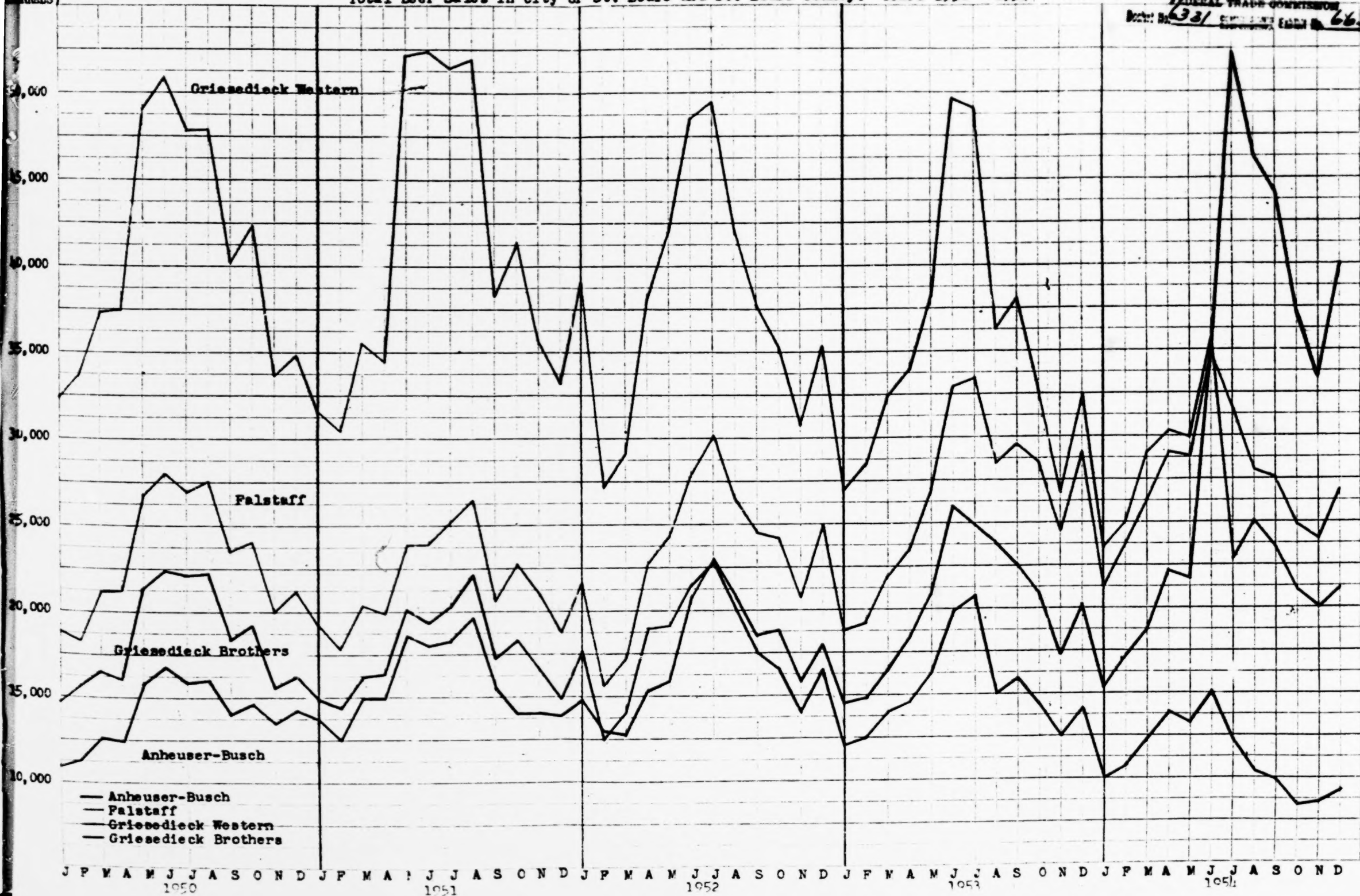
ELECTROTYPE, INC. Official Reporter

BY *Hallgren*

513

BUREAU)

Total Beer Sales in City of St. Louis and St. Louis County. Years 1950 - 1954

FEDERAL TRADE COMMISSION
Docket No. 631 Exhibit 66-B

Commission's Exhibit 67

(514)

Form S-090-287-A

**STATE
MARKET**

1954 RETAIL SALES ESTIMATES

	<i>Draught</i> (Bbls.)	<i>Export</i> Cases	<i>36/7</i> Cases	<i>Ret. 32-oz.</i> Qt. Cases	<i>1-Way Cases</i> 32-Oz. Qts. 12-Oz.	<i>Cans</i> Cases	<i>Total Pkgd.</i> Cases
January	3,600	225,500	1,340	20	4,875 230	17,250	249,215
February	3,300	223,800	1,305	20	4,800 210	15,750	245,885
March	3,800	274,600	1,810	25	5,850 245	18,375	300,905
April	3,900	299,700	1,915	25	6,075 295	22,125	330,135
May	4,450	347,800	2,385	25	7,050 520	39,000	396,780
June	4,550	366,300	2,365	30	7,425 640	48,000	424,960
July	4,700	381,100	2,710	30	7,725 670	50,250	442,485
August	4,900	370,000	2,600	30	7,500 660	49,500	430,290
September	4,300	318,200	2,095	25	6,450 410	30,750	357,930
October	4,000	288,600	1,805	25	5,850 395	29,625	326,300
November	3,900	277,500	1,700	20	5,625 325	24,375	309,545
December	3,600	284,900	1,770	25	5,775 325	30,000	322,870
Totals	49,000	3,658,000	24,000	300	75,000 5,000	375,000	322,870

1000

(515)

Commission's Exhibit 68-A

	<i>Cries. Bros.</i>	<i>Stag</i> (<i>Carlings</i>)	<i>Budweiser</i>	<i>Falstaff</i>	<i>Schlitz</i>	<i>Pabst</i>
1953						
Jan.	11,694.27	30,598.07	6,912.86	16,568.56	1,477.64	1,967.07
Feb.	15,208.77	36,059.46	10,232.14	20,066.20	2,337.40	3,641.25
Mar.	17,363.39	41,628.32	12,042.90	21,563.43	2,590.72	4,258.04
Apr.	17,310.07	42,734.70	12,839.13	24,184.77	2,773.94	4,218.15
May	23,251.10	56,116.29	18,282.72	34,216.53	4,614.22	6,098.18
June	29,531.81	64,997.43	24,862.73	39,964.68	3,575.37	6,535.89
July	28,364.22	68,666.13	24,367.71	39,016.63	630.00	4,077.83
Aug.	21,357.18	50,282.38	24,378.63	34,281.79	5,465.61	5,705.59
Sept.	21,381.43	53,782.71	21,751.33	35,560.52	4,210.87	5,570.57
Oct.	18,248.71	43,925.41	19,248.75	31,366.42	3,222.62	4,069.96
Nov.	16,726.41	41,398.40	16,215.06	30,045.20	2,684.55	3,631.39
Dec.	20,185.15	48,573.14	22,987.39	36,481.18	3,847.88	5,142.11
1953 Total	240,622.51	578,762.44	214,121.35	363,315.91	37,430.82	54,915.98
1954						
Jan.	13,152.13	30,847.05	13,363.19	22,921.29	1,600.51	2,504.45
Feb.	14,953.49	35,289.47	18,620.30	27,678.12	2,360.58	3,312.87
Mar.	20,476.73	38,239.85	21,172.87	31,196.42	2,867.63	3,602.57
Apr.	16,000.20	44,881.72	25,128.41	35,405.09	2,919.35	3,700.37
May	22,511.72	47,650.34	29,645.71	41,067.15	4,153.32	4,597.42
June	24,623.46	55,212.25	64,706.41	47,176.88	4,262.56	8,450.54
July	16,027.97	39,818.17	107,473.92	37,549.60	3,779.29	13,298.51
Aug.	16,131.21	39,090.81	101,785.94	39,449.06	4,077.39	13,787.42
Sept.	15,527.31	34,521.97	95,056.63	37,565.90	3,517.17	10,234.90
Oct.	11,829.91	30,009.72	72,119.33	33,574.69	3,057.41	7,464.14
Nov.	13,681.05	30,635.48	68,702.35	32,960.12	4,251.00	6,762.71
Dec.	12,077.44	31,357.62	78,956.75	38,057.26	5,371.86	9,148.05
1954 Total	196,992.62	457,554.45	696,731.81	424,601.58	42,218.07	86,863.95
1955						
Jan.	5,322.73	22,645.40	45,718.51	22,732.11	1,299.53	4,147.18
Feb.	10,177.20	61,835.54	137,307.20	76,350.04	1,978.94	8,059.08
Mar.	15,425.13	19,891.84	15,450.61	651.16	2,251.99	5,840.04
Apr.	7,036.00	28,731.39	2,598.02	30,259.75	2,487.40	1,035.00
May	15,911.64	55,241.33	26,591.65	60,462.17	5,797.63	3,823.77
June	18,568.50	61,610.02	53,682.59	63,690.03	6,608.27	6,604.66
July	15,534.92	63,247.10	63,553.94	77,233.87	5,505.24	3,676.94
Aug.	21,590.32	70,760.24	71,958.13	84,072.96	8,304.66	6,887.65
1955 Total	109,566.44	383,962.86	416,860.65	415,452.09	34,233.66	40,074.32

1951

1951

Commission's Exhibit 68-B

(516)

9 - 0 - 5**1953**

July	42,075.00
Aug.	65,568.00
Sept.	74,822.00
Oct.	46,706.00
Nov.	56,081.44
Dec.	50,657.48

1953 Total	335,909.92
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1954

Jan.	32,300.00
Feb.	38,250.00
Mar.	43,987.50
Apr.	50,685.32
May	53,550.00
June	100,937.50
July	47,387.50
Aug.	66,881.38
Sept.	43,914.75
Oct.	30,361.00
Nov.	32,067.00
Dec.	17,475.00

1954 Total	557,796.95
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1955

Jan.	29,330.00
Feb.	20,489.00
Mar.	35,151.50
Apr.	42,158.38
May	51,843.25
June	84,785.99
July	70,911.00
Aug.	75,082.75

1955 Total	409,751.87
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Commission's Exhibit 69-A
Griesedieck Bros. Brewery Company Sales
 (All cases are in terms of 24-12 oz.)

1952

	<i>St. Louis & County</i>		<i>East St. Louis</i>		<i>Wholesalers</i>		<i>T o t a l s</i>		
	<i>Draught (Bbls.)</i>	<i>Packaged (Cases)</i>	<i>Draught (Bbls.)</i>	<i>Packaged (Cases)</i>	<i>Draught (Pbls.)</i>	<i>Packaged (Cases)</i>	<i>Draught (Bbls.)</i>	<i>Packaged (Cases)</i>	<i>Combined (Bbls.)</i>
January	4,730	178,231	244	15,577	4,002	640,152	8,977	833,960	69,497
February	4,014	116,005	229	12,799	3,590	457,494	7,834	586,300	50,381
March	4,132	137,403	245	13,698	3,665	707,745	8,043	858,847	70,369
April	5,150	189,882	242	16,539	3,951	618,404	9,343	824,826	69,199
May	5,194	191,934	282	17,960	3,974	690,978	9,452	900,873	74,827
June	5,428	221,069	306	20,751	4,639	921,402	10,374	1,163,224	94,788
Sub Totals	28,648	1,034,524	1,548	97,324	23,821	4,036,175	54,023	5,168,030	429,061
July	5,642	237,046	281	24,867	4,398	864,296	10,321	1,126,210	92,049
August	5,346	203,653	271	19,377	3,939	632,063	9,557	855,093	71,610
September	4,713	177,113	245	17,889	3,686	658,514	8,645	853,516	70,584
October	4,592	166,691	248	16,809	3,673	625,799	8,514	809,300	67,244
November	3,795	140,626	211	13,836	2,897	487,963	6,904	642,427	53,524
December	4,268	169,336	232	16,929	3,093	546,922	7,594	733,188	60,801
Sub Totals	28,356	1,094,465	1,488	109,707	21,686	3,815,557	51,535	5,019,734	415,812
TOTALS	57,004	2,128,989	3,036	207,031	45,507	7,851,732	105,558	10,187,764	844,873

Commission's Exhibit 69-B
Griesedieck Bros. Brewery Company Sales
 (All cases are in terms of 24-12 oz.)

1953

	<i>St. Louis & County</i>		<i>East St. Louis</i>		<i>Wholesalers</i>		<i>T o t a l s</i>		
1 9 5 3	<i>Draught (Bbls.)</i>	<i>Packaged (Cases)</i>	<i>Draught (Bbls.)</i>	<i>Packaged (Cases)</i>	<i>Draught (Bbls.)</i>	<i>Packaged (Cases)</i>	<i>Draught (Bbls.)</i>	<i>Packaged (Cases)</i>	<i>Combined (Bbls.)</i>
January	3,428	118,153	200	12,180	2,545	462,987	6,173	593,322	49,229
February	3,489	124,447	188	11,858	2,761	440,256	6,438	576,561	48,279
March	3,787	139,666	212	14,252	3,335	537,086	7,335	691,005	57,480
April	3,921	146,326	204	14,465	2,837	638,044	6,963	798,836	64,934
May	4,181	166,818	251	16,200	3,416	641,407	7,848	824,426	67,676
June	4,861	206,521	275	20,856	4,503	979,366	9,639	1,206,744	97,211
Sub Total	23,667	901,931	1,330	89,811	19,397	3,699,146	44,396	4,690,894	384,809
July	5,074	215,555	299	23,445	4,584	838,485	9,958	1,077,487	88,150
August	3,999	154,316	234	17,270	3,167	707,822	7,400	879,409	71,218
September	4,096	162,001	230	18,355	3,293	747,048	7,620	927,404	74,921
October	3,791	145,614	231	15,309	3,001	516,125	7,023	677,050	56,156
November	3,273	127,001	205	12,926	2,679	496,102	6,158	636,029	52,314
December	3,463	147,619	201	14,943	3,043	425,202	6,708	587,764	49,361
Sub Total	23,696	952,106	1,400	102,248	19,767	3,730,784	44,867	4,785,143	392,120
TOTALS	47,363	1,854,037	2,730	192,059	39,164	7,429,930	89,263	9,476,037	776,929

NOTE: Fractions are dropped.

Commission's Exhibit 69-C
Griesedieck Bros. Brewery Company Sales
 (All cases are in terms of 24-12 oz.)

1954

	<i>St. Louis & County</i>		<i>East St. Louis</i>		<i>Wholesalers</i>		<i>T o t a l s</i>		
	<i>Draught (Bbls.)</i>	<i>Packaged (Cases)</i>	<i>Draught (Bbls.)</i>	<i>Packaged (Cases)</i>	<i>Draught (Bbls.)</i>	<i>Packaged (Cases)</i>	<i>Draught (Bbls.)</i>	<i>Packaged (Cases)</i>	<i>Combined (Bbls.)</i>
January	2,719	101,452	181	10,275	2,158	487,427	5,058	599,155	48,538
February	2,865	109,418	184	11,590	2,597	404,734	5,646	525,743	43,799
March	3,114	126,493	198	13,183	3,069	625,536	6,382	765,213	61,913
April	3,304	145,076	205	15,037	3,118	699,561	6,628	859,675	69,014
May	3,058	140,696	181	13,805	2,832	675,602	6,072	830,104	66,312
June	3,384	161,700	213	17,088	3,487	662,886	7,084	841,675	68,164
Sub Totals	18,444	784,835	1,162	80,978	17,261	3,555,746	36,870	4,421,565	357,740
July	3,294	123,104	201	16,790	3,379	713,351	6,875	853,245	68,794
August	2,937	103,964	176	14,829	2,796	520,065	5,910	638,859	52,272
September	2,736	98,231	165	14,461	2,624	498,782	5,525	611,475	49,899
October	2,367	83,344	155	12,406	2,285	443,022	4,808	538,773	43,906
November	2,153	88,262	145	11,505	2,211	424,321	4,510	524,089	42,543
December	2,165	88,731	139	12,027	1,756	410,412	4,041	511,171	41,136
Sub Totals	15,652	585,636	981	82,018	15,031	3,009,953	31,669	3,677,612	298,550
TOTALS	34,096	1,370,471	2,143	162,996	32,292	6,565,699	68,539	8,099,177	656,290

NOTE: Fractions are dropped.

Commission's Exhibit 69-D
Griesedieck Bros. Brewery Company Sales
 (All cases are in terms of 24-12 oz.)

1955

	<i>St. Louis & County</i>		<i>East St. Louis</i>		<i>Wholesalers</i>		<i>T o t a l s</i>		
	<i>Draught (Bbls.)</i>	<i>Packaged (Cases)</i>	<i>Draught (Bbls.)</i>	<i>Packaged (Cases)</i>	<i>Draught (Bbls.)</i>	<i>Packaged (Cases)</i>	<i>Draught (Bbls.)</i>	<i>Packaged (Cases)</i>	<i>Combined (Bbls.)</i>
January	1,731	45,196	123	8,296	1,671	321,718	3,526	375,211	30,755
February	1,652	61,729	105	8,174	1,468	300,199	3,226	370,103	30,084
March	2,074	70,115	108	10,436	1,877	464,534	4,059	545,086	43,616
April	2,242	69,596	135	11,032	1,670	413,883	4,048	494,511	39,934
May	2,517	86,318	146	12,086	2,224	556,979	4,889	655,383	52,449
June	2,619	91,623	130	12,274	2,046	449,800	4,795	553,698	44,977
Sub Totals	12,835	424,577	747	62,298	10,956	2,507,113	24,543	2,993,992	241,815
July	2,659	89,922	160	11,980	1,950	484,702	4,770	586,604	47,340
August	2,809	97,365	165	13,637	2,380	529,119	5,355	640,122	51,808
September	2,633	80,389	151	13,915	1,768	411,446	4,552	505,751	41,254
October	2,099	62,064	125	10,342	1,521	300,266	3,746	372,672	30,790
November	2,095	64,443	113	10,384	1,498	308,276	3,706	383,104	31,507
December	2,160	70,641	115	11,704	1,468	327,312	3,744	409,658	33,472
Sub Totals	14,455	464,824	829	71,962	10,585	2,361,121	25,873	2,897,911	236,171
TOTALS	27,290	889,401	1,576	134,260	21,541	4,868,234	50,416	5,891,903	477,986

NOTE: Fractions are dropped.

Commission's Exhibit 70

SALES COMPARISONS

(Cases are in terms of 24-12 oz.)

	1953		1954		1955		1955		1955	
	1/1 to 6/30	7/1 to 12/31	1/1 to 6/30	% change from prev. yr.	7/1 to 12/31	% change from prev. yr.	1/1 to 6/30	% change from prev. yr.	7/1 to 12/31	% change from prev. yr.
<i>Griesedieck Bros. Brewery Co.</i>										
St. Louis & Co. Draught (bbls.)	23,667	23,696	18,444	—22.07%	15,652	—33.96%	12,835	—30.41%	14,455	— 7.65%
East St. Louis Draught (Bbls.)	1,330	1,400	1,162	—12.63%	981	—29.93%	747	—35.71%	829	—15.49%
Wholesalers Draught (Bbls.)	19,397	19,767	17,261	—11.01%	15,031	—23.96%	10,956	—36.53%	10,585	—29.58%
St. Louis & Co. Packaged (Cases)	901,931	952,106	784,835	—12.98%	585,636	—38.49%	424,577	—45.90%	464,824	—20.63%
East St. Louis Packaged (Cases)	89,811	102,248	80,978	— 9.84%	82,018	—19.79%	62,298	—23.07%	71,962	—12.26%
Wholesale Packaged (Cases)	3,699,146	3,730,784	3,555,746	— 3.88%	3,009,953	—19.32%	2,507,113	—29.49%	2,361,121	—21.56%
Brewery Total (Barrels)	384,809	392,120	357,740	— 7.03%	298,550	—23.86%	241,815	—33.40%	236,171	—20.89%
<i>Anheuser-Busch, Inc.</i>										
Brewery Total (Barrels)	3,189,686	3,521,536	2,956,058	— 7.32%	2,872,702	—18.42%	2,814—	— 4.81%	2,803—	— 2.43%
<i>National Tax-Paid Withdrawals</i>										
All Breweries (Barrels)	40,394,315	45,633,616	40,100,073	— 0.73%	43,192,634	— 5.35%	41,263,099	+ 2.90%	43,711,540	+ 1.20%
<i>Missouri Tax-Paid Withdrawals</i>										
All Breweries (Barrels)	3,939,442	4,187,157	3,650,023	— 7.35%	3,390,060	—19.04%	3,276,491	—10.23%	3,237,565	— 4.50%

Commission's Exhibit 71

(522)

Anheuser-Busch, Inc. (Barrels Sold)

(Source: Quarterly and Annual Reports)

	1 9 5 3	1 9 5 4	1 9 5 5
1st Quarter	1,311,553	1,347,485	1,231—
2nd Quarter	1,878,133	1,608,573	1,583—
Sub Totals	3,189,686	2,956,058	2,814—
3rd Quarter	2,081,112	1,684,241	1,628—
4th Quarter	1,440,424	1,188,461	1,175—
Sub Totals	3,521,536	2,872,702	2,803—
TOTAL	6,711,222	5,828,760	5,616,793

Commission's Exhibit 72

(523)

Docket 6331—Anheuser-Busch, Inc.

Sales of 24-12 oz. Bottles to Retailers

Local and Regional Beers sold to Retailers in cases of 24-12 oz. bottles at prices equal to or greater than prices of Budweiser.

State	No. of Cities	Coors	Old Style	Heil- manns	Pfeifer	Fehrs	Schaeffer	Haffen- reffer	Gettle- mans	Grain- belt	Foxhead	Thomas	Tempo	Total No. Cities Samples
California	6	6												32
Montana	1		1											14
Nevada	1	1												8
Utah	2	2												4
Wyoming	1		1											6
Iowa	4		4		1									20
South Dakota	1		1											4
Nebraska	1		1											11
Texas	4	4												35
Illinois	1		1											45
Indiana	1					1								54
Wisconsin	7		4	4					2	1		1		14
Kentucky	3					3								14
Florida	6						6							14
Georgia	1					1								13
New Jersey	1										1			7
Maine	1						1	1						4
Tennessee	1					1							1	11
Total for 17 States	43	13	13	4	1	6	7	1	2	1	1	1	1	310
Total for other 31 States														413
Total for 48 States														723

The prices of local and regional beers were equal or greater than Budweiser in 43 of 723 cities sampled or 5.95 percent.

Note: These data were compiled from the September 1955 survey conducted under supervision of Anheuser-Busch, Inc.

Commission's Exhibit 73

Docket 6331—Anheuser-Busch, Inc.

Sale of 48-12 oz. Cans to Retailers

Local and Regional Beers Sold to Retailers in Cases of 48-12 oz. Cans at Prices Equal
to or Greater than Prices of Budweiser

State	Number of Cities	Coors	Old Style	Pfeifers	Schaefer	Foxhead	Tempo	A. B. Inc.	Stite	Fehrs	Cattle- mens	Grain- belt	Schmitz	Storz	Gluecks	Falstaff	Thomas	Heilmans	Total No Cities Sampled
Arizona	5	5																	10
California	8	8																	32
Colorado	1							1											7
Nevada	1	1																	8
Utah	2	2																	4
Wyoming	1		1																6
Iowa	2		2																20
South Dakota	1		1											1					4
Minnesota	3			3				1				3	1		1				11
Nebraska	2		2																11
North Dakota	2			1									2			1			6
Oklahoma	1	1																	20
Texas	4	4																	35
Illinois	3		3																45
Indiana	1									1									54
Wisconsin	7		3								1						1	4	14
Kentucky	3									3									14
Florida	6				6														14
Georgia	1									1									13
New Jersey	1					1													7
Tennessee	1						1			1									11
Total for 21 States	56	21	12	4	6	1	1	2	1	6	1	3	3	1	1	1	1	4	346
Total for other 27 States																			377
Total for 48 States																			723

The prices of local and regional beers were equal or greater than prices of Budweiser in 57 of 723 cities sampled or 7.75 percent.

Note: These data were compiled from the September 1955 survey conducted under supervision of Anheuser-Busch, Inc.

Respondent's Exhibit 3

**Anheuser-Busch and Industry Package Beer
Sales in Barrels and Percent Change
Year 1952**

	<i>Industry Sales Package Beer Bbls.</i>	<i>AB Sales Package Beer Bbls.</i>	<i>% Change from Previous Year</i>		<i>AB % to Industry</i>	
			<i>Industry</i>	<i>AB</i>	<i>1952</i>	<i>1951</i>
Ala.	483,854	96,928	- 0.8	+ 3.0	20.0	19.3
Ariz.	358,267	24,494	+ 9.9	+ 6.5	6.8	7.0
Ark.	321,118	62,330	+ 1.1	+ 7.2	19.4	18.3
Calif.	5,345,200	233,142	+ 5.6	+10.7	4.4	4.2
Colo.	416,096	31,310	+ 4.8	- 8.8	7.5	8.7
Conn.	835,924	78,868	+ 7.0	+28.2	9.4	7.9
Del.	181,233	14,542	+ 7.1	+17.0	8.0	7.3
D. C.	476,034	49,079	- 3.4	- 0.5	10.3	10.0
Fla.	1,088,701	215,286	+ 6.6	+ 7.0	19.8	19.7
Ga.	605,586	119,613	+ 5.4	+ 7.0	19.8	19.4
Idaho	211,412	14,206	+ 0.2	-21.0	6.7	8.5
Ill.	4,558,770	419,106	+ 3.3	+13.8	9.2	8.3
Ind.	1,882,495	72,601	- 1.1	+ 7.5	3.9	3.5
Iowa	855,159	74,670	+ 6.7	+ 3.4	8.7	9.0
Kan.	434,657	53,622	+11.4	+ 6.0	12.3	13.0
Ky.	1,059,341	46,750	+ 3.4	- 6.3	4.4	4.9
La.	1,107,545	61,648	+ 3.8	+14.6	5.6	5.0
Me.	362,854	39,024	+ 1.9	+38.8	10.8	7.9
Md.	1,495,378	72,442	- 2.3	+ 9.2	4.8	4.3
Mass.	1,357,808	197,687	+ 3.4	+19.0	14.6	12.6
Mich.	4,072,914	120,707	+ 0.7	+ 7.6	3.0	2.8
Minn.	1,097,602	32,002	+ 3.4	- 2.0	2.9	3.1
Miss.	316,648	44,474	+ 4.6	+ 1.2	14.0	14.5
Mo.	1,778,617	187,179	+ 2.0	+14.4	10.5	9.4
Mont.	288,577	32,729	+ 7.2	+ 3.3	11.3	11.8
Neb.	445,576	32,918	+ 6.1	+ 7.0	7.4	7.3
Nev.	126,968	18,133	+13.5	+31.0	14.3	12.4
N. H.	259,014	27,969	+ 5.6	+24.8	10.8	9.1
N. J.	2,444,644	161,100	+ 6.2	+12.1	6.6	6.2
N. M.	251,920	21,109	+ 5.8	-10.1	8.4	9.9

Respondent's Exhibit 3

**Anheuser-Busch and Industry Package Beer
Sales in Barrels and Percent Change
Year 1952 (Cont'd)**

	<i>Industry Sales Package Beer Bbls</i>	<i>AB Sales Package Beer Bbls</i>	<i>% Change from Previous Year</i>		<i>AB % to Indus</i>	
			<i>Industry</i>	<i>AB</i>	<i>1952</i>	<i>1951</i>
N. Y.	6,283,173	328,306	+ 4.4	+ 9.9	5.2	5.1
N. C.	585,140	136,782	— 5.0	— 0.2	23.4	22.1
N. D.	190,135	17,311	— 0.5	— 6.2	9.1	6.1
Ohio	4,303,014	252,499	+ 5.1	+ 25.1	5.9	4.1
Okla.	543,331	53,298	+ 0.2	— 9.4	9.8	10.1
Ore.	591,486	22,033	— 1.7	— 9.7	3.7	4.1
Penn.	5,007,383	312,210	+ 2.8	+ 33.6	6.2	4.1
R. I.	358,945	40,904	+ 2.6	+ 18.9	11.4	9.1
S. C.	362,697	72,647	+ 41.8	+ 15.3	20.0	24.1
S. D.	179,165	8,074	+ 10.3	— 10.6	4.5	5.1
Tenn.	778,625	103,454	— 3.5	— 2.3	13.3	13.1
Texas	3,962,228	225,139	— 0.5	— 4.6	5.7	5.1
Utah	154,435	7,248	—	— 8.5	4.7	5.1
Ver.	156,188	17,118	+ 1.5	+ 22.4	11.0	9.1
(527)						
Va.	1,133,374	216,612	+ 3.4	+ 15.7	19.1	17.1
Wash.	923,689	34,224	+ 3.9	+ 13.7	3.7	3.1
W. Va.	549,679	36,038	— 3.8	+ 16.7	6.6	5.1
Wisc.	1,794,255	51,189	+ 6.0	+ 27.4	2.9	2.1
Wyo.	116,422	13,166	+ 3.0	— 10.2	11.3	13.1
Total U. S.	62,493,345	4,603,920	+ 3.2	+ 10.6	7.4	6.1

Respondent's Exhibit 3

(528)

**Anheuser-Busch and Industry Package Beer
Sales in Barrels and Percent to Previous Year
July 1953**

E—Estimated Package Draught Breakdown

X—From sources other than U.S.B.F.

STATE	Industry Sales	A-B Sales	% To Previous Year Industry	A-B
Alabama	46,385	10,853	94.9	112.2
Arizona	35,906	2,197	94.2	97.6
Arkansas	31,705	8,112	94.6	106.8
California—E	537,124	31,724	97.4	139.4
Colorado—E	16,269	4,927	33.5	123.1
Connecticut	104,349	10,097	95.7	96.1
Delaware	25,250	1,698	103.0	103.4
Dist. of Columbia	52,792	5,868	97.2	103.8
Florida	108,707	23,584	108.0	160.3
Georgia	69,844	14,890	113.1	117.5
Idaho	23,273	1,246	106.3	89.2
Illinois	555,317	53,241	114.2	114.5
Indiana	219,961	9,925	101.8	134.8
Iowa	91,708	8,655	98.9	118.2
Kansas	47,634	6,401	88.4	76.3
Kentucky	89,586	5,871	50.1	104.6
Louisiana—E	117,624	7,436	99.0	107.4
Maine	45,296	7,025	89.3	121.7
Maryland	161,298	8,995	105.5	104.1
Massachusetts—E	158,793	19,521	119.4	80.0
Michigan	493,569	15,627	107.7	112.7
Minnesota—E	128,869	4,091	102.2	140.8
Mississippi	33,448	4,646	56.6	96.7
Missouri	195,895	28,527	97.5	132.1
Montana—E	33,863	3,961	103.5	141.0
Nebraska	52,851	4,279	94.9	121.8
Nevada	14,324	3,165	96.4	142.9
New Hampshire	31,746	3,485	103.4	94.6

Respondent's Exhibit 3

STATE	Industry Sales	A-B Sales	% To Previous Year	
			Industry	A-B
New Jersey—E	335,809	20,466	108.6	88.7
New Mexico	27,465	2,996	112.5	267.5
New York—E	751,544	38,750	102.2	105.6
North Carolina	76,700	15,145	138.1	115.1
North Dakota	15,949	1,892	75.9	128.8
Ohio	478,832	26,922	96.3	88.4
Oklahoma	50,662	6,395	85.2	100.3
Oregon	58,834	1,683	90.3	280.3
Pennsylvania—X	574,141	29,860	104.8	119.7
Rhode Island	40,483	4,978	95.2	103.6
South Carolina	28,908	8,153	80.3	122.5
South Dakota	22,658	1,047	103.8	99.6
Tennessee	77,752	10,891	93.1	99.4
Texas—X	391,273	25,213	101.5	118.7
Utah	17,860	722	101.2	59.2
Vermont	20,702	2,200	97.2	106.9
Virginia	113,595	21,945	71.5	103.9
Washington	100,978	3,265	105.8	69.6
West Virginia	58,459	3,824	96.9	83.3
Wisconsin	240,453	7,235	117.9	109.7
Wyoming	14,748	2,622	98.0	182.6
TOTAL U. S.	7,021,191	546,251	99.9	106.3

Respondent's Exhibit 3

(529)

**Anheuser-Busch and Industry Package Beer
Sales in Barrels and Percent to Previous Year
August 1953**

E—Estimated Package Draught Breakdown

X—From sources other than U.S.B.F.

STATE	Industry Sales	A-B Sales	% To Previous Year Industry	A-B
Alabama	57,809	9,271	119.5	82.7
Arizona	39,323	2,545	120.4	142.6
Arkansas	36,219	7,495	115.6	112.2
California—E	511,275	27,873	82.9	107.0
Colorado—E	46,856	3,885	99.4	120.0
Connecticut	87,158	10,766	106.1	105.6
Delaware	17,188	2,137	104.8	182.8
Dist. of Columbia	42,276	4,562	94.3	104.0
Florida	106,110	24,874	109.3	94.5
Georgia	71,284	13,482	111.9	86.6
Idaho	23,051	1,282	88.4	83.1
Illinois	468,288	54,489	109.4	131.6
Indiana	204,068	9,458	123.8	125.0
Iowa	96,373	7,828	119.2	86.1
Kansas	50,259	6,423	110.3	138.5
Kentucky	123,391	6,766	135.6	129.2
Louisiana—E	112,216	6,770	103.3	84.1
Maine	33,697	4,575	102.5	95.0
Maryland	157,231	10,406	87.5	128.9
Massachusetts—E	140,591	20,790	107.1	98.1
Michigan	473,893	14,709	124.5	123.2
Minnesota—E	122,295	3,941	114.4	124.3
Mississippi	37,277	5,289	185.4	126.6
Missouri	174,807	25,016	105.1	129.2
Montana—E	33,818	3,158	102.1	70.8
Nebraska	51,897	3,399	128.1	96.4
Nevada	15,482	2,474	102.0	94.3
New Hampshire	26,793	3,899	104.8	90.3

Respondent's Exhibit 3

STATE	Industry	A-B	% To Previous Year	
	Sales	Sales	Industry	A-B
New Jersey—E	284,903	18,858	114.2	105.5
New Mexico	27,916	3,040	120.3	187.3
New York—E	674,041	37,852	108.4	98.4
North Carolina	81,618	16,240	132.7	104.1
North Dakota	19,289	1,499	95.9	135.2
Ohio	443,974	29,360	113.7	110.4
Oklahoma	50,548	5,763	91.5	106.5
Oregon	60,821	2,256	101.2	105.5
Pennsylvania—X	498,657	34,460	99.3	95.0
Rhode Island	37,617	5,084	103.1	104.7
South Carolina	45,667	7,642	184.5	78.6
South Dakota	21,335	1,196	103.0	93.6
Tennessee	84,066	12,340	109.9	92.1
Texas—X	440,604	27,276	116.9	99.2
Utah	17,469	1,175	107.0	99.8
Vermont	19,915	1,922	112.9	97.6
Virginia	105,683	24,820	133.0	102.5
Washington	95,300	2,780	103.9	60.0
West Virginia	55,476	4,472	98.8	105.3
Wisconsin	232,856	7,720	133.8	126.2
Wyoming	15,473	1,580	116.6	98.6
TOTAL U. S.	6,674,153	544,837	110.5	105.1

Respondent's Exhibit 3

(530)

**Anheuser-Busch and Industry Package Beer
Sales in Barrels and Percent to Previous Year
September 1953**

E—Estimated Package Draught Breakdown

X—From sources other than U.S.B.F.

STATE	<i>Industry Sales</i>	<i>A-B Sales</i>	<i>% To Previous Year</i>	
			<i>Industry</i>	<i>A-B</i>
Alabama	54,068	10,426	137.3	115.0
Arizona	36,173	2,776	106.4	120.0
Arkansas	34,160	8,173	131.4	191.2
California—E	509,289	28,571	91.4	115.2
Colorado—E	40,939	3,473	100.6	124.3
Connecticut	122,062	9,664	175.3	180.3
Delaware	22,541	1,381	158.2	136.8
Dist. of Columbia	46,094	5,386	115.0	121.4
Florida	96,429	24,789	107.3	148.0
Georgia	61,322	15,053	133.3	167.4
Idaho	22,164	1,773	127.4	156.4
Illinois	483,997	51,359	151.2	139.3
Indiana	202,140	10,166	127.2	165.5
Iowa	89,718	9,504	131.3	163.9
Kansas	48,586	7,640	117.4	175.0
Kentucky	50,566	5,546	159.6	125.1
Louisiana—E	110,003	6,549	113.2	155.3
Maine	38,475	5,623	138.5	169.4
Maryland	147,795	7,868	110.0	124.6
Massachusetts—E	194,504	24,267	189.2	160.8
Michigan	415,710	16,166	121.7	145.4
Minnesota—E	109,713	3,283	119.6	144.4
Mississippi	35,692	4,327	195.6	108.3
Missouri	181,333	24,086	122.3	150.7
Montana—E	31,330	4,813	124.4	175.1
Nebraska	50,621	4,315	140.1	137.9
Nevada	16,434	2,682	137.1	197.5
New Hampshire	29,478	4,369	143.6	237.1

Respondent's Exhibit 3

STATE	<i>Industry Sales</i>	<i>A-B Sales</i>	<i>% To Previous Year Industry</i>	<i>A-B</i>
New Jersey—E	324,200	18,125	157.3	139.3
New Mexico	25,534	2,666	123.1	114.0
New York—E	831,518	42,136	158.7	145.5
North Carolina	65,147	15,152	138.6	113.0
North Dakota	20,739	2,137	112.0	132.8
Ohio	457,462	27,587	128.5	132.1
Oklahoma	50,539	6,862	99.9	177.1
Oregon	58,451	2,285	109.0	107.3
Pennsylvania—X	529,430	27,720	124.2	130.8
Rhode Island	42,466	3,882	143.6	115.4
South Carolina	38,019	7,685	127.7	130.5
South Dakota	18,679	1,160	109.4	133.8
Tennessee	78,811	11,616	120.0	140.6
Texas—X	377,437	25,810	111.7	151.1
Utah	15,437	939	114.9	286.0
Vermont	19,708	2,164	158.6	164.3
Virginia	112,981	22,448	139.9	115.4
Washington	95,847	3,138	127.7	160.8
West Virginia	55,627	5,645	119.1	190.6
Wisconsin	172,366	6,564	118.4	188.5
Wyoming	15,386	1,902	153.4	151.1
TOTAL U. S.	6,587,126	541,651	127.3	141.5

Respondent's Exhibit 3

(531)

**Anheuser-Busch and Industry Package Beer
Sales in Barrels and Percent to Previous Year
October 1953**

E—Estimated Package Draught Breakdown

X—From sources other than U.S.B.F.

STATE	Industry Sales	A-B Sales	% To Previous Year Industry	A-B
Alabama	46,122	11,742	131.7	182.5
Arizona	39,027	3,266	87.6	166.6
Arkansas	29,027	7,710	105.2	148.2
California—E	467,209	28,167	99.8	150.3
Colorado—E	37,154	3,409	105.4	136.9
Connecticut	45,760	8,143	69.0	125.7
Delaware	12,803	1,342	80.5	133.3
Dist. of Columbia	47,707	4,315	123.3	104.6
Florida	95,726	26,768	109.0	193.5
Georgia	53,139	13,102	118.2	155.9
Idaho	19,416	1,013	122.0	100.4
Illinois	436,692	53,005	129.8	151.3
Indiana	166,739	8,948	109.3	170.2
Iowa	80,318	9,627	122.6	200.9
Kansas	34,945	5,387	101.9	124.6
Kentucky	60,284	4,910	103.0	175.4
Louisiana—E	109,051	8,032	118.8	167.9
Maine	19,140	4,549	69.6	182.3
Maryland	163,662	5,810	140.8	99.2
Massachusetts—E	87,859	16,051	114.7	119.1
Michigan	346,052	12,674	109.6	134.2
Minnesota—E	99,830	3,031	120.2	121.4
Mississippi	31,817	5,427	93.0	134.2
Missouri	162,289	22,948	109.9	145.8
Montana—E	25,843	3,585	116.6	186.4
Nebraska	47,608	5,913	133.7	257.7
Nevada	11,169	1,836	104.4	142.9
New Hampshire	18,810	2,969	92.8	113.9

Respondent's Exhibit 3

STATE	<i>Industry Sales</i>	<i>A-B Sales</i>	<i>% To Previous Year</i>	
			<i>Industry</i>	<i>A-B</i>
New Jersey—E	177,386	11,950	93.5	112.4
New Mexico	23,955	2,352	102.2	172.4
New York—E	414,297	35,141	84.9	140.0
North Carolina	60,053	15,686	134.9	176.5
North Dakota	20,956	1,975	116.2	146.6
Ohio	370,794	30,429	109.3	145.0
Oklahoma	41,804	6,437	89.6	164.9
Oregon	50,057	1,359	94.9	78.2
Pennsylvania—X	400,068	28,104	101.2	120.5
Rhode Island	27,148	3,831	99.4	138.2
South Carolina	32,612	7,946	157.7	146.5
South Dakota	15,623	1,119	107.8	218.7
Tennessee	65,729	11,580	105.7	142.1
Texas—X	364,872	25,900	111.5	162.3
Utah	12,550	823	95.2	400.9
Vermont	8,501	1,274	74.5	112.3
Virginia	99,670	25,105	134.4	154.4
Washington	94,129	2,872	115.4	106.9
West Virginia	45,005	3,917	108.2	145.6
Wisconsin	148,097	6,630	105.9	180.2
Wyoming	9,836	1,480	111.5	135.7
TOTAL U. S.	5,278,360	509,589	106.4	146.7

Respondent's Exhibit 3

(532)

**Anheuser-Busch and Industry Package Beer
Sales in Barrels and Percent to Previous Year
November 1953**

E—Estimated Package Draught Breakdown

X—From sources other than U.S.B.F.

STATE	Industry Sales	A-B Sales	% To Previous Year Industry	A-B
Alabama	31,045	9,195	100.8	139.2
Arizona	23,192	1,110	89.3	60.5
Arkansas	17,771	4,146	95.5	122.1
California—E	374,590	15,073	116.8	108.8
Colorado—E	24,094	1,447	86.9	73.4
Connecticut	54,791	3,948	91.5	79.0
Delaware	11,752	693	93.3	54.4
Dist. of Columbia	29,707	2,838	88.7	79.3
Florida	80,748	18,437	101.5	120.2
Georgia	33,765	11,229	86.5	148.6
Idaho	16,586	388	117.9	36.2
Illinois	317,129	38,347	100.5	125.1
Indiana	136,673	6,442	103.1	134.2
Iowa	56,933	6,188	96.6	137.9
Kansas	25,374	3,849	94.3	146.7
Kentucky	60,311	3,386	110.2	109.5
Louisiana—E	78,233	5,581	104.6	132.9
Maine	20,974	2,626	82.0	94.0
Maryland	98,706	4,647	96.4	91.8
Massachusetts—E	85,381	10,386	91.7	81.6
Michigan	291,408	9,299	98.4	102.8
Minnesota—E	83,394	1,859	110.3	88.6
Mississippi	21,340	3,689	114.8	139.8
Missouri	121,741	18,252	97.2	132.4
Montana—E	21,052	2,578	120.2	182.8
Nebraska	32,084	3,476	101.6	137.6
Nevada	8,722	1,274	104.3	148.7
New Hampshire	16,264	1,373	90.8	119.8

Respondent's Exhibit 3

STATE	<i>Industry</i>	<i>A-B</i>	<i>% To Previous Year</i>	
	<i>Sales</i>	<i>Sales</i>	<i>Industry</i>	<i>A-B</i>
New Jersey--E	165,130	7,784	93.9	76.7
New Mexico	15,404	1,833	114.2	391.5
New York--E	406,904	18,397	88.7	91.7
North Carolina	35,363	11,623	85.1	132.4
North Dakota	17,805	1,105	124.7	194.2
Ohio	316,868	23,361	106.0	138.5
Oklahoma	34,460	3,513	93.2	102.4
Oregon	27,905	247	73.0	10.7
Pennsylvania--X	352,674	20,293	98.1	103.1
Rhode Island	21,520	2,066	85.9	72.1
South Carolina	20,524	7,185	69.4	128.9
South Dakota	11,543	714	103.1	134.6
Tennessee	49,959	8,174	95.6	125.9
Texas--X	240,399	14,101	92.5	101.6
Utah	9,632	407	94.3	163.1
Vermont	9,302	329	84.4	26.0
Virginia	58,309	19,342	86.0	119.0
Washington	48,886	1,112	77.5	36.6
West Virginia	35,717	3,016	97.1	143.0
Wisconsin	131,824	4,359	103.3	126.8
Wyoming	6,344	832	80.3	268.7
TOTAL U. S.	4,190,332	341,549	96.8	112.2

Respondent's Exhibit 3

(533)

**Anheuser-Busch and Industry Package Beer
Sales in Barrels and Percent to Previous Year
December 1953**

E—Estimated Package Draught Breakdown

X—From sources other than U.S.B.F.

STATE	Industry Sales	A-B Sales	% To Previous Year	
			Industry	A-B
Alabama	24,554	3,241	66.3	39.6
Arizona	19,844	—	95.1	—
Arkansas	14,491	3,176	57.4	66.7
California—E	400,903	16,021	119.6	81.2
Colorado—E	24,222	1,422	87.7	71.2
Connecticut	72,981	4,008	98.2	50.9
Delaware	16,505	383	97.5	27.9
Dist. of Columbia	28,116	3,467	70.5	84.5
Florida	93,097	11,996	101.9	65.6
Georgia	23,666	3,492	62.4	41.3
Idaho	7,839	510	75.0	71.3
Illinois	258,665	32,996	69.7	87.5
Indiana	153,725	5,523	96.1	89.4
Iowa	56,398	3,524	82.6	44.9
Kansas	26,007	1,737	90.7	44.8
Kentucky	76,918	1,625	245.2	44.6
Louisiana—E	78,009	3,680	97.8	71.1
Maine	22,824	876	82.1	21.9
Maryland	86,149	4,547	81.2	89.5
Massachusetts—E	106,744	12,098	91.9	63.5
Michigan	334,249	8,323	95.0	75.5
Minnesota—E	82,801	1,587	96.6	63.3
Mississippi	18,026	1,457	100.1	38.6
Missouri	132,532	18,634	101.1	112.7
Montana—E	19,149	1,328	91.8	51.3
Nebraska	29,788	765	89.4	27.0
Nevada	6,337	711	93.6	79.5
New Hampshire	20,136	1,226	93.8	59.3

Respondent's Exhibit 3

STATE	Industry Sales	A-B Sales	% To Previous Year	
			Industry	A-B
New Jersey—E	207,106	8,109	97.6	58.9
New Mexico	12,346	319	69.6	17.2
New York—E	508,881	20,054	94.1	71.0
North Carolina	22,619	4,700	50.2	38.8
North Dakota	14,795	209	108.6	16.6
Ohio	331,504	7,053	90.0	33.2
Oklahoma	35,463	1,737	95.4	41.6
Oregon	27,102	710	79.4	78.5
Pennsylvania—X	455,357	16,013	94.5	58.5
Rhode Island	28,349	1,637	85.7	40.1
South Carolina	8,412	4,514	30.6	89.0
South Dakota	9,138	179	100.2	52.5
Tennessee	45,136	4,986	80.9	62.8
Texas—X	257,576	8,031	93.5	42.3
Utah	9,254	70	95.3	12.7
Vermont	10,624	1,096	82.5	55.1
Virginia	53,790	14,171	71.5	82.8
Washington	59,090	1,129	85.4	60.3
West Virginia	35,405	452	85.3	19.7
Wisconsin	153,472	3,628	101.7	79.7
Wyoming	5,572	742	73.4	62.2
TOTAL U. S.	4,525,666	247,892	91.3	63.5

Respondent's Exhibit 3

**Anheuser-Busch and Industry Package Beer
Sales in Barrels and Percent Change
Year 1953**

	<i>Industry Sales Package Beer Bbls.</i>	<i>AB Sales Package Beer Bbls.</i>	<i>% Change from Previous Year</i>		<i>AB Inc. % to Industry</i>	
			<i>Industry</i>	<i>AB Inc.</i>	<i>1953</i>	<i>1952</i>
Ala.	488,856	101,362	+ 1.0	+ 4.6	20.7	20.0
Ariz.	375,968	25,384	+ 4.9	+ 3.6	6.8	6.8
Ark.	318,011	70,147	— 1.0	+ 12.5	22.1	19.4
Calif.	5,580,373	266,683	+ 4.4	+ 14.4	4.8	4.4
Colo.	366,856	34,485	— 11.8	+ 10.1	9.4	7.5
Conn.	881,941	85,605	+ 5.5	+ 8.5	9.7	9.4
Del.	188,923	14,195	+ 4.2	— 2.4	7.5	8.0
D. C.	467,853	50,150	— 1.7	+ 2.2	10.7	10.3
Fla.	1,179,883	271,234	+ 8.4	+ 26.0	23.0	19.8
Ga.	572,401	130,722	— 5.5	+ 9.3	22.8	19.8
Idaho	215,604	11,965	+ 2.0	— 15.8	5.5	6.7
Ill.	4,737,709	512,730	+ 3.9	+ 22.3	10.8	9.2
Ind.	2,018,785	89,822	+ 7.2	+ 23.7	4.4	3.9
Iowa	868,132	83,292	+ 1.5	+ 11.5	9.6	8.7
Kan.	446,154	59,286	+ 2.6	+ 10.6	13.3	12.3
Ky.	983,898	55,820	— 7.1	+ 19.4	5.7	4.4
La.	1,158,924	72,989	+ 4.6	+ 18.4	6.3	5.6
Me.	371,344	45,797	+ 2.3	+ 17.4	12.3	10.8
Md.	1,521,969	80,236	+ 1.8	+ 10.8	5.3	4.8
Mass.	1,427,030	203,961	+ 5.1	+ 3.2	14.3	14.6
Mich.	4,372,822	146,905	+ 7.4	+ 21.7	3.4	3.0
Minn.	1,159,707	33,902	+ 5.7	+ 5.9	2.9	2.9
Miss.	323,465	47,035	+ 2.0	+ 5.8	14.5	14.0
Mo.	1,828,150	242,618	+ 2.8	+ 29.6	13.3	10.5
Mont.	295,563	36,753	+ 2.4	+ 12.3	12.4	11.3
Neb.	482,713	39,074	+ 8.3	+ 18.7	8.1	7.4
Nev.	144,293	24,092	+ 13.6	+ 32.9	16.7	14.3
N. H.	262,963	32,485	+ 1.5	+ 16.1	12.4	10.8
N. J.	2,663,904	157,282	+ 9.0	— 2.4	5.9	6.6
N. M.	254,312	26,318	+ 0.9	+ 24.7	10.3	8.4

Respondent's Exhibit 3

**Anheuser-Busch and Industry Package Beer
Sales in Barrels and Percent Change
Year 1953 (Cont'd)**

	<i>Industry Sales Package Beer Bbls.</i>	<i>AB Sales Package Beer Bbls.</i>	<i>% Change from Previous Year</i>		<i>AB % to Industry 1953</i>	
			<i>Industry</i>	<i>AB</i>		
N. Y.	6,610,184	354,656	+ 5.2	+ 8.0	5.4	51
N. C.	591,128	150,626	+ 1.0	+ 10.1	25.5	234
N. D.	190,569	17,148	+ 0.2	— 0.9	9.0	91
Ohio	4,481,795	284,250	+ 4.2	+ 12.6	6.3	51
Okla.	518,744	55,436	— 4.5	+ 4.0	10.7	91
Ore.	564,345	19,536	— 4.6	— 11.3	3.5	37
Penn.	5,239,822	304,782	+ 4.6	— 2.4	5.8	61
R. I.	362,506	39,765	+ 1.0	— 2.8	11.0	114
S. C.	345,391	78,049	— 4.8	+ 7.4	22.6	201
S. D.	178,818	9,375	— 0.2	+ 16.1	5.2	41
Tenn.	767,981	113,668	— 1.4	+ 9.9	14.8	131
Texas	4,020,792	245,613	+ 1.5	+ 9.1	6.1	57
Utah	151,860	7,298	— 1.7	+ 0.7	4.8	47
Ver.	167,922	19,862	+ 7.5	+ 16.0	11.8	111
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Va.	1,159,707	251,072	+ 2.3	+ 15.9	21.6	191
Wash.	936,209	30,960	+ 1.4	— 9.5	3.3	37
W. Va.	535,184	38,435	— 2.6	+ 6.7	7.2	61
Wisc.	1,879,994	65,946	+ 4.8	+ 28.8	3.5	21
Wyo.	118,086	16,180	+ 1.4	+ 22.9	13.7	111
TOTAL U. S.	64,779,543	5,154,986	+ 3.7	+ 12.0	8.0	71

Respondent's Exhibit 3

(536)

**Anheuser-Busch and Industry Package Beer
Sales in Barrels and Percent to Previous Year
January 1954**

E—Estimated Package Draught Breakdown

X—From sources other than U.S.B.F.

STATE	<i>Industry Sales</i>	<i>A-B Sales</i>	<i>% To Previous Year Industry</i>	<i>A-B</i>
Alabama	29,067	6,864	99.0	138.8
Arizona	22,882	809	73.1	61.0
Arkansas	18,521	3,500	89.4	101.0
California—E	321,100	13,503	86.5	89.9
Colorado—E	23,374	1,547	80.9	72.1
Connecticut	41,714	7,160	88.6	144.0
Delaware	9,264	935	93.0	180.5
Dist. of Columbia	24,677	2,683	81.2	78.4
Florida	83,799	26,071	100.1	132.0
Georgia	34,827	8,521	89.2	104.5
Idaho	5,322	551	36.2	96.5
Illinois	340,988	37,592	105.2	129.7
Indiana	123,926	5,305	93.2	104.1
Iowa	55,128	5,475	94.1	114.7
Kansas	23,662	3,598	91.7	115.7
Kentucky	96,420	4,453	334.4	116.9
Louisiana—E	70,751	4,648	100.9	152.4
Maine	18,923	2,607	85.8	94.0
Maryland	102,415	4,743	93.8	107.9
Massachusetts—E	75,817	10,858	90.1	103.6
Michigan	265,085	8,902	88.5	98.7
Minnesota—E	63,992	1,721	94.4	92.8
Mississippi	20,932	3,563	105.5	151.2
Missouri	111,239	16,648	102.7	134.3
Montana—E	14,423	1,840	83.5	137.3
Nebraska	23,117	1,718	85.3	139.3
Nevada	8,841	1,063	88.9	119.4
New Hampshire	13,321	1,743	80.9	81.9

Respondent's Exhibit 3

STATE	Industry Sales	A-B Sales	% To Previous Year	
			Industry	A-B
New Jersey—E	130,593	7,208	89.7	92.7
New Mexico	13,976	1,037	105.4	166.7
New York—E	360,444	19,209	88.9	105.1
North Carolina	37,329	10,420	98.2	130.6
North Dakota	10,229	731	87.8	64.1
Ohio	296,424	23,172	99.2	121.1
Oklahoma	29,323	2,324	87.1	120.2
Oregon	36,916	988	79.7	197.6
Pennsylvania—X	316,012	21,120	92.8	112.6
Rhode Island	19,608	2,617	85.9	88.6
South Carolina	18,959	6,079	80.9	169.6
South Dakota	9,738	607	90.5	87.8
Tennessee	52,492 52,492	10,327	97.2	135.7
Texas—X	253,335	14,679	89.4	116.4
Utah	8,668	324	87.3	60.1
Vermont	7,436	1,304	68.2	145.7
Virginia	— 49,988	17,869	94.1	114.9
Washington	58,030	1,210	90.7	61.6
West Virginia	32,400	2,275	86.2	79.5
Wisconsin	106,800	4,321	84.5	99.1
Wyoming	6,032	677	82.5	99.0
TOTAL U. S.	3,898,259	307,119	93.6	115.3

Respondent's Exhibit 3

(537)

**Anheuser-Busch and Industry Package Beer
Sales in Barrels and Percent to Previous Year
February 1954**

E—Estimated Package Draught Breakdown

X—From sources other than U.S.B.F.

STATE	<i>Industry Sales</i>	<i>A-B Sales</i>	<i>% To Previous Year Industry</i>	<i>A-B</i>
Alabama	28,493	5,795	94.2	112.7
Arizona	26,695	1,567	102.2	80.0
Arkansas	19,667	3,038	104.0	74.8
California—E	295,837	13,912	82.2	90.9
Colorado—E	27,913	1,998	82.8	114.8
Connecticut	51,208	5,004	100.1	135.8
Delaware	11,270	581	101.1	69.8
Dist. of Columbia	27,085	3,009	89.5	93.1
Florida	93,993	21,231	104.6	109.9
Georgia	31,746	8,427	78.4	103.1
Idaho	19,207	444	140.7	59.2
Illinois	243,963	34,078	81.4	115.0
Indiana	130,255	5,089	104.6	106.8
Iowa	56,295	4,910	97.3	89.3
Kansas	26,181	3,552	97.8	100.8
Kentucky	60,418	3,002	79.4	93.2
Louisiana—E	86,844	5,246	117.3	96.4
Maine	18,272	1,894	83.4	90.0
Maryland	90,197	4,097	93.1	90.8
Massachusetts—E	78,725	10,440	87.9	77.3
Michigan	271,617	7,857	99.2	92.0
Minnesota—E	75,461	1,677	118.6	90.9
Mississippi	20,575	2,505	103.8	85.6
Missouri	118,290	17,635	104.8	130.3
Montana—E	18,240	1,871	101.5	70.5
Nebraska	26,964	934	101.6	52.5
Nevada	9,262	1,710	89.2	114.2
New Hampshire	15,278	1,750	99.1	87.3

Respondent's Exhibit 3

STATE	Industry Sales	A-B Sales	% To Previous Year Industry A-B	
New Jersey—E	159,315	8,625	103.3	101.3
New Mexico	16,613	1,983	67.9	120.1
New York—E	375,514	17,189	107.3	92.1
North Carolina	32,539	8,273	79.9	88.7
North Dakota	10,174	696	82.7	78.0
Ohio	288,628	17,135	100.7	97.6
Oklahoma	33,296	2,594	96.8	59.8
Oregon	32,993	418	81.2	27.3
Pennsylvania—X	332,031	15,763	101.3	75.5
Rhode Island	19,592	1,700	88.8	87.7
South Carolina	29,518	5,186	148.5	89.0
South Dakota	10,612	549	106.8	197.5
Tennessee	45,811	7,139	92.3	103.9
Texas—X	274,467	9,671	97.5	58.3
Utah	9,126	173	87.9	67.3
Vermont	8,168	1,202	76.8	80.1
Virginia	67,228	15,226	83.4	86.9
Washington	59,194	1,564	90.7	76.1
West Virginia	30,998	2,138	94.0	108.5
Wisconsin	118,041	4,325	109.0	106.4
Wyoming	6,396	616	84.6	104.8
TOTAL U. S.	3,940,405	295,418	95.3	94.1

Respondent's Exhibit 3

(538)

**Anheuser-Busch and Industry Package Beer
Sales in Barrels and Percent to Previous Year
March 1954**

E—Estimated Package Draught Breakdown

X—From sources other than U.S.B.F.

STATE	Industry Sales	A-B Sales	% To Previous Year	
			Industry	A-B
Alabama	37,798	6,870	100.6	84.8
Arizona	30,254	1,626	97.0	72.6
Arkansas	23,911	5,095	88.5	94.2
California—E	481,425	21,948	94.6	104.0
Colorado—E	32,456	2,064	111.7	66.0
Connecticut	62,129	7,220	100.4	128.2
Delaware	14,461	790	123.5	92.3
Dist. of Columbia	32,868	3,263	94.7	90.8
Florida	104,769	27,119	94.5	94.7
Georgia	39,043	10,514	77.9	107.0
Idaho	14,161	1,042	102.6	90.6
Illinois	385,762	41,151	108.8	117.0
Indiana	153,398	7,201	101.6	109.6
Iowa	68,284	6,481	106.4	119.0
Kansas	30,270	4,893	94.8	122.9
Kentucky	101,614	3,623	112.2	83.8
Louisiana—E	88,829	8,511	112.0	145.5
Maine	28,356	3,576	97.6	115.7
Maryland	90,602	4,945	92.5	94.1
Massachusetts—E	108,966	12,778	110.8	88.2
Michigan	326,761	9,079	108.7	88.0
Minnesota—E	85,658	2,074	110.6	84.5
Mississippi	22,718	3,839	95.3	113.8
Missouri	143,222	22,387	105.6	122.1
Montana—E	22,208	2,799	99.2	110.3
Nebraska	35,382	2,875	98.3	97.8
Nevada	12,773	1,878	101.3	86.7
New Hampshire	16,682	2,949	92.8	134.5

Respondent's Exhibit 3

STATE	<i>Industry</i>		<i>% To Previous Year</i>	
	<i>Sales</i>	<i>A-B</i> <i>Sales</i>	<i>Industry</i>	<i>A-B</i>
New Jersey—E	189,673	11,285	105.6	92.1
New Mexico	18,259	1,430	138.6	96.0
New York—E	479,850	27,599	102.6	112.8
North Carolina	41,935	12,067	81.8	100.3
North Dakota	14,539	1,842	124.4	105.3
Ohio	337,108	16,565	106.0	71.7
Oklahoma	39,118	3,250	96.7	83.3
Oregon	42,287	1,679	93.5	85.2
Pennsylvania—X	382,845	18,649	100.2	82.0
Rhode Island	25,594	2,267	94.4	76.1
South Carolina	15,829	5,806	33.0	98.4
South Dakota	12,791	648	113.7	75.0
Tennessee	57,818	8,728	97.8	106.1
Texas—X	337,629	18,705	105.3	95.5
Utah	10,688	464	93.9	67.9
Vermont	10,800	1,655	86.5	179.1
Virginia	73,335	19,545	65.6	100.3
Washington	75,615	1,907	99.4	58.9
West Virginia	40,334	2,299	95.7	92.3
Wisconsin	134,893	5,680	106.4	156.3
Wyoming	9,265	1,358	135.5	130.7
TOTAL U. S.	4,944,965	392,023	100.9	100.3

Respondent's Exhibit 3

(539)

**Anheuser-Busch and Industry Package Beer
Sales in Barrels and Percent to Previous Year
April 1954**

E—Estimated Package Draught Breakdown

X—From sources other than U.S.B.F.

STATE	Industry Sales	A-B Sales	% To Previous Year	
			Industry	A-B
Alabama	41,662	7,222	90.5	83.9
Arizona	32,776	1,557	97.1	69.4
Arkansas	31,210	6,203	103.9	97.7
California—E	472,648	18,079	96.0	80.1
Colorado—E	34,813	2,219	92.0	90.6
Connecticut	66,717	9,532	101.8	98.6
Delaware	13,069	1,391	78.9	92.4
Dist. of Columbia	37,418	3,811	100.9	95.1
Florida	108,656	21,360	107.1	72.9
Georgia	52,989	11,964	100.8	111.1
Idaho	19,085	999	78.4	77.6
Illinois	359,996	41,808	84.7	103.9
Indiana	158,132	6,522	97.6	86.2
Iowa	70,506	5,469	99.2	73.1
Kansas	34,357	4,149	102.0	73.4
Kentucky	41,058	3,358	43.0	58.9
Louisiana—E	100,527	4,607	95.0	65.3
Maine	31,642	3,627	94.1	108.0
Maryland	109,755	6,361	97.5	90.0
Massachusetts—E	124,885	16,239	102.9	79.8
Michigan	352,594	9,326	102.3	73.6
Minnesota—E	93,576	2,169	100.2	75.9
Mississippi	28,606	4,721	102.4	101.2
Missouri	163,654	24,698	115.4	169.1
Montana—E	23,091	3,082	96.7	84.8
Nebraska	40,407	3,075	100.9	99.2
Nevada	13,265	2,222	105.3	100.5
New Hampshire	20,303	2,125	103.6	89.3

Respondent's Exhibit 3

STATE	Industry Sales	A-B Sales	% To Previous Year	
			Industry	A-B
New Jersey—E	203,834	10,800	105.0	81.4
New Mexico	22,473	2,233	96.5	70.6
New York—E	516,005	27,639	98.7	88.4
North Carolina	51,967	13,474	100.1	92.3
North Dakota	13,955	757	107.2	58.6
Ohio	360,390	17,953	100.2	67.9
Oklahoma	44,237	3,510	109.7	62.0
Oregon	45,416	1,161	91.3	35.5
Pennsylvania—X	406,994	20,899	93.4	77.0
Rhode Island	27,028	3,750	88.4	95.1
South Carolina	32,940	6,139	142.3	88.1
South Dakota	15,054	826	104.8	106.3
Tennessee	63,237	8,471	91.8	84.4
Texas—X	365,236	18,616	95.6	84.3
Utah	12,286	197	89.6	32.0
Vermont	12,357	1,182	111.6	100.7
Virginia	79,757	23,769	60.1	100.4
Washington	78,779	1,677	105.0	60.4
West Virginia	42,443	2,625	100.0	81.2
Wisconsin	136,425	4,782	99.5	102.1
Wyoming	9,165	1,085	79.1	73.8
TOTAL U. S.	5,217,375	399,240	96.0	87.4

Respondent's Exhibit 3

(540)

**Anheuser-Busch and Industry Package Beer
Sales in Barrels and Percent to Previous Year
May 1954**

E—Estimated Package Draught Breakdown

X—From sources other than U.S.B.F.

STATE	Industry Sales	A-B Sales	% To Previous Year	
			Industry	A-B
Alabama	41,829	7,256	101.3	66.2
Arizona	34,880	1,390	111.8	49.1
Arkansas	27,636	4,752	113.2	91.0
California—E	497,411	19,648	102.3	93.7
Colorado—E	38,609	2,931	108.8	129.1
Connecticut	70,205	7,977	85.9	115.3
Delaware	14,590	1,322	86.9	98.1
Dist. of Columbia	32,984	3,382	75.2	71.9
Florida	104,016	22,268	96.8	108.4
Georgia	60,663	12,377	164.3	115.3
Idaho	21,260	608	142.4	56.3
Illinois	458,703	40,910	119.7	85.3
Indiana	165,290	6,025	100.8	72.4
Iowa	78,543	7,062	123.3	81.9
Kansas	35,706	5,375	93.8	86.0
Kentucky	92,327	3,910	143.4	73.4
Louisiana—E	109,363	4,102	105.0	51.5
Maine	31,817	4,790	87.3	90.7
Maryland	122,795	6,487	85.8	91.5
Massachusetts—E	130,265	19,099	106.3	90.2
Michigan	358,858	10,646	91.8	73.1
Minnesota—E	100,328	2,861	91.6	81.5
Mississippi	27,396	3,440	141.8	73.3
Missouri	162,384	24,548	101.3	119.4
Montana—E	27,888	3,120	122.1	99.7
Nebraska	48,078	3,970	124.0	90.2
Nevada	15,232	1,933	112.5	75.7
New Hampshire	20,873	3,066	89.9	96.4

Respondent's Exhibit 3

STATE	Industry	A-B	% To Previous Year	
	Sales	Sales	Industry	A-B
New Jersey—E	206,122	10,716	91.4	88.5
New Mexico	27,508	2,085	112.3	85.6
New York—E	558,529	30,166	92.9	84.7
North Carolina	57,722	11,802	153.0	79.0
North Dakota	15,092	1,792	96.0	95.3
Ohio	364,406	20,821	97.1	72.9
Oklahoma	41,552	5,301	89.6	107.3
Oregon	48,866	738	92.8	34.6
Pennsylvania—X	396,744	20,781	90.6	70.7
Rhode Island	28,398	3,583	99.9	113.9
South Carolina,	29,844	6,928	84.3	116.6
South Dakota	16,685	856	117.9	145.1
Tennessee	65,285	7,712	104.1	66.9
Texas—X	376,458	14,120	116.7	59.8
Utah	13,621	705	124.3	98.6
Vermont	17,658	2,348	117.0	76.3
Virginia	110,752	22,502	86.4	90.1
Washington	82,208	2,348	102.8	67.3
West Virginia	40,647	2,980	94.2	80.0
Wisconsin	158,721	5,934	100.8	81.4
Wyoming	10,516	1,175	131.3	147.4
TOTAL U. S.	5,597,263	410,648	100.9	85.0

Respondent's Exhibit 3

(541)

**Anheuser-Busch and Industry Package Beer
Sales in Barrels and Percent to Previous Year
June 1954**

I—Estimated Package Draught Breakdown

X—From sources other than U.S.B.F.

STATE	<i>Industry Sales</i>	<i>A-B Sales</i>	<i>% To Previous Year Industry</i>	<i>A-B</i>
Alabama	45,338	5,414	102.2	60.9
Arizona	38,145	1,161	131.8	40.1
Arkansas	31,525	4,582	77.0	67.2
California—E	550,370	18,562	98.0	76.4
Colorado—E	48,961	2,394	396.8	57.1
Connecticut	98,041	5,817	112.1	71.8
Delaware	23,351	763	139.8	50.8
Dist. of Columbia	43,900	4,230	97.9	88.0
Florida	106,176	15,274	100.4	65.8
Georgia	57,008	9,146	141.6	77.4
Idaho	21,446	722	98.2	61.6
Illinois	492,054	48,792	114.1	103.1
Indiana	210,551	5,608	104.7	79.6
Iowa	96,447	7,511	118.5	122.2
Kansas	53,315	5,282	93.4	99.2
Kentucky	109,525	4,153	65.4	77.8
Louisiana—E	115,622	5,427	96.1	97.3
Maine	42,266	5,211	88.3	133.0
Maryland	151,109	7,377	102.4	76.6
Massachusetts—E	136,511	16,544	99.5	79.3
Michigan	476,540	12,887	116.7	85.9
Minnesota—E	130,849	3,277	108.2	91.3
Mississippi	30,659	3,423	102.4	81.7
Missouri	224,220	37,122	101.8	144.2
Montana—E	30,760	2,983	117.5	73.9
Nebraska	53,101	3,197	107.5	92.4
Nevada	17,402	1,895	136.4	72.0
New Hampshire	28,095	3,397	103.9	103.6

Respondent's Exhibit 3

STATE	Industry Sales	A-B Sales	% To Previous Year	
			Industry	A-B
New Jersey—E	283,678	15,370	104.9	85.0
New Mexico	27,283	1,379	90.8	36.8
New York—E	663,831	27,282	106.6	80.2
North Carolina	49,206	9,375	164.3	70.9
North Dakota	20,111	1,303	120.6	94.6
Ohio	484,036	19,576	109.0	79.0
Oklahoma	54,749	2,984	91.2	75.4
Oregon	54,270	1,045	116.5	65.9
Pennsylvania—X	523,897	21,257	103.6	72.2
Rhode Island	37,802	3,279	111.3	98.5
South Carolina	31,702	6,807	148.3	101.5
South Dakota	20,109	909	103.7	119.6
Tennessee	77,422	8,461	107.2	86.3
Texas—X	394,898	14,524	110.1	58.6
Utah	15,509	535	116.5	152.0
Vermont	17,774	1,812	93.8	54.8
Virginia	112,497	14,789	103.2	67.0
Washington	87,150	2,089	106.8	66.4
West Virginia	53,598	2,344	104.7	83.0
Wisconsin	201,587	6,428	139.0	111.4
Wyoming	14,468	1,707	153.6	69.8
TOTAL U. S.	6,668,864	405,406	107.0	83.4

Respondent's Exhibit 3

(542)

**Anheuser-Busch and Industry Package Beer
Sales in Barrels and Percent to Previous Year
July 1954**

E—Estimated Package Draught Breakdown

X—From sources other than U.S.B.F.

STATE	Industry Sales	A-B Sales	% To Previous Year	
			Industry	A-B
Alabama	49,474	8,175	106.7	132.8
Arizona	33,506	1,639	93.3	134.0
Arkansas	33,344	6,741	105.2	120.3
California—E	615,320	25,345	114.6	125.2
Colorado—E	50,665	3,964	311.4	124.3
Connecticut	93,399	5,591	89.5	180.6
Delaware	18,724	1,259	74.2	134.9
Dist. of Columbia	46,126	4,073	37.4	144.1
Florida	112,988	22,332	103.9	105.6
Georgia	61,773	12,533	88.4	118.8
Idaho	26,056	1,027	112.0	121.3
Illinois	505,212	49,976	91.0	106.5
Indiana	197,878	7,782	90.0	127.5
Iowa	109,153	9,584	119.0	90.3
Kansas	58,263	7,610	122.3	84.1
Kentucky	135,304	4,808	151.0	122.1
Louisiana—E	116,817	6,899	99.3	107.8
Maine	39,763	4,168	87.8	168.5
Maryland	155,908	7,283	96.7	123.5
Massachusetts—E	146,889	17,061	92.5	114.4
Michigan	440,220	12,877	89.2	121.4
Minnesota—E	139,020	3,948	107.9	103.6
Mississippi	33,308	4,639	99.6	100.2
Missouri	207,822	57,153	106.1	49.9
Montana—E	36,450	3,312	107.6	119.6
Nebraska	59,192	5,338	112.0	80.2
Nevada	18,332	2,267	128.0	139.6
New Hampshire	30,447	3,768	95.9	92.5

Respondent's Exhibit 3

STATE	<i>Industry Sales</i>	<i>A-B Sales</i>	<i>% To Previous Year</i>	
			<i>Industry</i>	<i>A-B</i>
New Jersey—E	306,234	15,014	91.2	136.3
New Mexico	29,997	2,546	109.2	117.7
New York—E	689,683	30,142	91.8	128.6
North Carolina	60,442	13,667	78.8	110.8
North Dakota	23,096	1,832	144.8	103.3
Ohio	460,488	21,565	96.2	124.8
Oklahoma	59,460	4,343	117.4	147.2
Oregon	54,451	1,970	92.6	85.4
Pennsylvania—X	520,946	23,431	90.7	127.4
Rhode Island	36,427	3,075	90.0	161.9
South Carolina	33,612	7,590	116.3	107.4
South Dakota	25,526	1,652	112.7	63.4
Tennessee	79,524	10,913	102.3	99.8
Texas—X	428,739	23,253	109.6	108.4
Utah	19,070	933	106.8	77.4
Vermont	18,699	2,098	90.3	104.9
Virginia	100,888	24,710	88.8	88.8
Washington	93,892	2,730	93.0	119.6
West Virginia	51,764	3,403	88.5	112.4
Wisconsin	206,899	7,643	86.0	94.7
Wyoming	15,989	1,869	108.4	140.3
TOTAL U. S.	6,887,179	505,551	98.1	108.1

Respondent's Exhibit 3

(543)

**Anheuser-Busch and Industry Package Beer
Sales in Barrels and Percent to Previous Year
August 1954**

E—Estimated Package Draught Breakdown

X—From sources other than U.S.B.F.

STATE	Industry Sales	A-B Sales	% To Previous Year	
			Industry	A-B
Alabama	43,852	8,243	75.9	88.9
Arizona	30,249	1,136	76.9	44.6
Arkansas	29,281	5,354	80.8	71.4
California—E	537,951	22,229	105.2	79.8
Colorado—E	45,431	2,203	97.0	56.7
Connecticut	88,472	6,063	101.5	56.3
Delaware	17,894	1,176	104.1	55.0
Dist. of Columbia	43,489	4,125	102.9	91.6
Florida	113,938	18,007	107.4	72.4
Georgia	55,508	10,750	77.9	79.7
Idaho	24,878	1,066	107.9	83.2
Illinois	392,999	44,040	83.9	80.8
Indiana	176,370	5,275	86.4	55.8
Iowa	82,321	7,371	85.4	94.2
Kansas	48,103	4,771	95.7	74.3
Kentucky	197,555	3,757	160.1	55.5
Louisiana—E	116,561	4,120	104.0	60.9
Maine	33,112	2,767	98.3	60.5
Maryland	148,195	7,235	94.3	69.5
Massachusetts—E	145,383	17,195	103.4	82.7
Michigan	398,146	10,606	84.0	72.1
Minnesota—E	118,123	2,250	96.6	57.1
Mississippi	30,531	3,285	81.9	62.1
Missouri	187,094	50,698	107.0	202.7
Montana—E	31,694	2,803	93.7	88.8
Nebraska	42,884	3,400	82.6	100.0
Nevada	16,125	1,728	104.2	69.8
New Hampshire	26,124	1,773	97.5	45.5

Respondent's Exhibit 3

STATE	<i>Industry Sales</i>	<i>A-B Sales</i>	<i>% To Previous Year</i>	
			<i>Industry</i>	<i>A-B</i>
New Jersey—E	275,753	13,993	96.8	74.2
New Mexico	23,930	1,442	85.7	47.4
New York—E	647,504	25,608	96.1	67.7
North Carolina	52,325	9,789	64.1	60.3
North Dakota	19,678	1,423	102.0	94.9
Ohio	424,740	17,655	95.7	60.1
Oklahoma	52,891	4,154	104.6	72.1
Oregon	54,554	1,675	89.7	74.2
Pennsylvania—X	480,685	20,738	96.4	60.2
Rhode Island	31,421	2,686	83.5	52.8
South Carolina	23,808	6,491	52.1	84.9
South Dakota	20,911	1,100	98.0	92.0
Tennessee	72,175	10,098	85.9	81.8
Texas—X	433,310	17,377	98.3	63.7
Utah	15,162	251	86.0	21.4
Vermont	14,730	1,435	74.0	74.7
Virginia	89,401	18,931	84.6	76.3
Washington	94,169	2,146	98.8	77.2
West Virginia	47,062	2,129	84.8	47.6
Wisconsin	185,096	6,644	79.5	86.1
Wyoming	13,039	1,488	84.3	94.2
TOTAL U. S.	6,294,607	420,679	94.3	77.2

Respondent's Exhibit 3

(544)

**Anheuser-Busch and Industry Package Beer
Sales in Barrels and Percent to Previous Year
September 1954**

E—Estimated Package Draught Breakdown

X—From sources other than U.S.B.F.

STATE	Industry Sales	A-B Sales	% To Previous Year	
			Industry	A-B
Alabama	43,864	9,268	81.1	88.9
Arizona	33,073	1,375	91.4	49.5
Arkansas	27,556	5,369	80.7	65.7
California—E	506,824	18,597	99.5	65.1
Colorado—E	38,782	2,493	94.7	71.8
Connecticut	71,246	5,683	58.4	58.8
Delaware	18,879	402	83.8	29.1
Dist. of Columbia	38,372	3,494	83.2	64.9
Florida	102,209	21,686	106.0	87.5
Georgia	47,048	11,411	76.7	75.8
Idaho	17,033	485	76.8	27.4
Illinois	329,284	37,393	68.0	72.8
Indiana	170,995	6,346	84.6	62.4
Iowa	72,731	5,750	81.1	60.5
Kansas	44,173	4,562	90.9	59.7
Kentucky	69,226	3,147	136.9	56.7
Louisiana—E	111,490	4,498	101.4	68.7
Maine	26,932	2,747	70.0	48.9
Maryland	143,967	5,219	97.4	66.3
Massachusetts—E	113,057	14,466	58.1	59.6
Michigan	346,759	8,548	83.4	52.9
Minnesota—E	95,636	2,233	87.2	68.0
Mississippi	29,735	4,147	83.3	95.8
Missouri	170,603	46,586	94.1	193.4
Montana—E	24,524	1,848	78.3	38.4
Nebraska	41,895	2,373	82.8	55.0
Nevada	13,270	1,339	80.7	49.9
New Hampshire	20,971	1,085	71.1	24.8

Respondent's Exhibit 3

STATE	Industry Sales	A-B Sales	% To Previous Year Industry A-B	
New Jersey—E	222,189	8,720	68.5	48.1
New Mexico	21,081	1,540	82.6	57.8
New York—E	525,791	22,905	63.2	54.4
North Carolina	46,480	10,341	71.3	68.2
North Dakota	16,800	994	81.0	46.5
Ohio	388,896	14,080	85.0	51.0
Oklahoma	50,674	6,498	100.3	36.4
Oregon	43,611	916	74.6	40.1
Pennsylvania—X	422,947	16,801	79.9	60.6
Rhode Island	29,357	2,098	69.1	54.0
South Carolina	25,165	6,193	66.2	80.6
South Dakota	15,004	597	80.3	51.5
Tennessee	64,380	7,515	81.7	64.7
Texas—X	293,710	12,510	77.8	48.5
Utah	12,595	175	81.6	18.6
Vermont	10,751	1,179	54.6	54.5
Virginia	64,890	16,222	57.4	72.3
Washington	82,442	1,827	86.0	58.5
West Virginia	45,287	2,554	81.4	45.2
Wisconsin	153,394	5,096	89.0	77.6
Wyoming	9,898	892	64.3	46.9
TOTAL U. S.	5,315,476	368,203	79.5	68.0

Respondent's Exhibit 3

(545)

**Anheuser-Busch and Industry Package Beer
Sales in Barrels and Percent to Previous Year
October 1954**

E—Estimated Package Draught Breakdown

X—From sources other than U.S.B.F.

STATE	Industry Sales	A-B Sales	% To Previous Year	
			Industry	A-B
Alabama	39,707	6,546	86.1	55.7
Arizona	32,309	2,042	82.8	62.5
Arkansas	26,947	4,775	92.8	61.9
California—E	439,393	15,658	94.0	55.6
Colorado—E	33,518	1,992	90.2	58.4
Connecticut	67,875	4,479	148.3	55.0
Delaware	14,057	561	109.8	41.8
Dist. of Columbia	35,622	3,367	74.7	78.0
Florida	94,779	19,921	99.0	74.4
Georgia	49,398	9,209	93.0	70.3
Idaho	14,125	511	72.7	50.4
Illinois	359,257	36,680	82.3	69.2
Indiana	145,262	4,974	87.1	55.6
Iowa	62,647	5,344	78.0	55.5
Kansas	33,433	3,414	95.7	63.4
Kentucky	56,152	3,195	93.1	65.1
Louisiana—E	94,162	5,080	86.3	63.2
Maine	25,659	2,523	134.1	55.5
Maryland	125,267	4,158	76.5	71.6
Massachusetts—E	100,583	11,388	114.5	70.9
Michigan	310,490	8,093	89.7	63.9
Minnesota—E	79,971	1,818	80.1	60.0
Mississippi	27,178	3,573	85.4	65.8
Missouri	147,194	39,038	90.7	170.1
Montana—E	21,895	2,077	84.7	57.9
Nebraska	33,871	2,566	71.1	43.4
Nevada	13,219	1,390	118.4	75.7
New Hampshire	20,269	1,279	107.8	43.1

Respondent's Exhibit 3

STATE	Industry Sales	A-B Sales	% To Previous Year Industry	A-B
New Jersey—E	206,737	8,240	116.5	69.0
New Mexico	19,288	1,566	80.5	66.6
New York—E	502,157	22,021	121.2	62.7
North Carolina	49,872	12,159	83.0	77.5
North Dakota	11,890	805	56.7	40.8
Ohio	331,492	10,743	89.4	35.3
Oklahoma	41,633	4,063	99.6	63.1
Oregon	37,552	709	75.0	52.2
Pennsylvania—X	379,712	14,733	94.9	52.4
Rhode Island	26,357	2,302	97.1	60.1
South Carolina	35,734	7,289	109.6	91.7
South Dakota	10,351	624	66.3	55.8
Tennessee	58,679	7,144	89.3	61.7
Texas—X	304,351	13,419	83.4	51.8
Utah	12,277	524	97.8	63.7
Vermont	11,416	829	134.3	65.1
Virginia	66,231	17,990	66.5	71.7
Washington	65,436	1,442	69.5	50.2
West Virginia	37,769	2,061	83.9	52.6
Wisconsin	126,646	3,232	85.5	48.7
Wyoming	8,326	753	84.6	50.9
TOTAL U. S.	4,848,148	338,299	91.8	66.4

Respondent's Exhibit 3

(546)

**Anheuser-Busch and Industry Package Beer
Sales in Barrels and Percent to Previous Year
November 1954**

E—Estimated Package Draught Breakdown

X—From sources other than U.S.B.F.

STATE	Industry Sales	A-B Sales	% To Previous Year Industry	A-B
Alabama	28,393	3,839	91.5	41.8
Arizona	30,558	766	131.8	69.0
Arkansas	17,763	2,550	99.9	61.5
California—E	408,186	14,332	109.0	95.1
Colorado—E	31,116	1,611	129.1	111.3
Connecticut	65,121	5,705	118.9	144.5
Delaware	12,763	740	108.6	106.8
Dist. of Columbia	32,722	3,199	110.1	112.7
Florida	92,461	14,750	114.5	80.0
Georgia	34,121	6,579	101.1	58.6
Idaho	13,683	332	82.5	85.6
Illinois	287,345	34,797	96.6	90.7
Indiana	145,489	4,084	106.5	63.4
Iowa	64,834	3,537	113.9	57.2
Kansas	32,589	2,593	128.4	67.4
Kentucky	73,357	2,544	121.6	75.1
Louisiana—E	77,097	2,549	98.5	45.7
Maine	26,094	1,382	124.4	52.6
Maryland	102,375	3,947	103.7	84.9
Massachusetts—E	109,710	12,498	128.5	120.3
Michigan	323,734	8,585	111.1	92.3
Minnesota—E	82,752	1,643	99.2	88.4
Mississippi	20,881	2,523	97.8	68.4
Missouri	129,661	36,351	106.5	199.2
Montana—E	21,990	1,388	104.5	53.8
Nebraska	35,310	1,896	110.1	54.5
Nevada	10,463	992	120.0	77.9
New Hampshire	19,328	1,480	118.8	107.8

Respondent's Exhibit 3

STATE	Industry Sales	A-B Sales	% To Previous Year Industry	A-B
New Jersey—E	193,003	8,229	116.9	105.7
New Mexico	17,323	871	112.5	47.5
New York—E	484,107	20,542	119.0	111.7
North Carolina	40,216	7,630	113.7	65.6
North Dakota	11,886	1,156	66.8	104.6
Ohio	28,694	12,940	103.7	55.4
Oklahoma	39,175	1,377	113.7	39.2
Oregon	36,489	591	130.8	239.3
Pennsylvania—X	385,616	12,851	109.3	63.3
Rhode Island	25,427	1,995	118.2	96.6
South Carolina	25,081	4,449	122.2	61.9
South Dakota	11,651	454	100.9	63.6
Tennessee	50,452	6,449	101.0	78.9
Texas—X	267,889	7,999	111.4	56.7
Utah	10,063	67	104.5	16.5
Vermont	11,513	1,259	124.0	382.7
Virginia	64,179	14,143	110.1	73.1
Washington	63,612	1,048	130.1	94.2
West Virginia	35,057	2,259	98.2	74.9
Wisconsin	134,286	3,946	101.9	90.5
Wyoming	8,547	532	134.7	63.9
TOTAL U. S.	4,574,187	287,979	109.2	84.3

Respondent's Exhibit 3

(547)

**Anheuser-Busch and Industry Package Beer
Sales in Barrels and Percent to Previous Year
December 1954**

E—Estimated Package Draught Breakdown

X—From sources other than U.S.B.F.

STATE	Industry Sales	A-B Sales	% To Previous Year Industry	A-B
Alabama	25,210	2,494	102.7	77.0
Arizona	26,533	823	133.7	∞
Arkansas	18,131	1,929	125.1	60.7
California—E	391,091	13,302	97.6	83.0
Colorado—E	30,467	1,755	125.8	123.4
Connecticut	72,253	3,806	99.0	95.0
Delaware	17,503	867	106.0	226.4
Dist. of Columbia	33,511	3,134	119.2	90.4
Florida	94,885	16,562	101.9	138.1
Georgia	27,376	4,242	115.7	121.5
Idaho	11,326	295	144.5	57.8
Illinois	348,670	38,297	134.8	116.1
Indiana	151,756	4,840	98.7	87.6
Iowa	70,799	5,625	125.5	159.6
Kansas	30,989	2,790	119.2	160.6
Kentucky	48,472	2,856	63.0	175.8
Louisiana—E	83,551	4,140	107.1	112.5
Maine	23,456	2,169	102.8	247.6
Maryland	101,945	4,054	118.3	89.2
Massachusetts—E	124,482	12,806	116.6	105.9
Michigan	351,620	7,922	105.2	95.2
Minnesota—E	91,045	2,034	110.0	128.2
Mississippi	17,964	987	99.7	67.7
Missouri	147,254	39,708	111.1	213.1
Montana—E	21,694	1,783	113.3	134.3
Nebraska	36,864	2,415	123.8	315.7
Nevada	9,383	487	148.1	68.5
New Hampshire	20,382	1,494	101.2	121.9

Respondent's Exhibit 3

STATE	Industry	A-B	% To Previous Year	
	Sales	Sales	Industry	A-B
New Jersey—E	215,770	8,265	104.2	101.9
New Mexico	17,053	1,168	138.1	366.1
New York—E	532,693	20,063	104.7	100.0
North Carolina	31,426	6,502	138.9	138.3
North Dakota	15,144	683	102.4	326.8
Ohio	360,354	12,229	108.7	173.4
Oklahoma	37,594	1,392	106.0	80.1
Oregon	30,728	984	113.4	138.6
Pennsylvania—X	450,225	16,392	98.9	102.4
Rhode Island	28,216	2,127	99.5	129.9
South Carolina	22,950	3,819	272.8	84.6
South Dakota	11,942	355	130.7	198.3
Tennessee	47,381	5,478	105.0	109.9
Texas—X	302,396	9,562	117.4	119.1
Utah	9,507	222	102.7	317.1
Vermont	11,491	1,527	108.2	139.3
Virginia	69,565	11,905	129.3	84.0
Washington	69,890	643	118.3	57.0
West Virginia	35,002	1,000	98.9	221.2
Wisconsin	149,314	3,916	97.3	107.9
Wyoming	8,097	638	145.3	86.0
TOTAL U. S.	4,885,350	292,486	108.0	118.0

Respondent's Exhibit 3

(548)

**Anheuser-Busch and Industry Package Beer
Sales in Barrels and Percent to Previous Year
January 1955**

E—Estimated Package Draught Breakdown

X—From sources other than U.S.B.F.

STATE	Industry Sales	A-B Sales	% To Previous Year Industry	A-B
Alabama	33,445	6,438	115.1	93.8
Arizona	27,196	1,461	118.9	180.6
Arkansas	19,589	3,402	105.8	97.2
California	317,882	10,443	99.0	77.3
Colorado	26,966	1,003	115.4	64.8
Connecticut	46,321	5,289	110.0	73.9
Delaware	10,236	389	110.5	41.6
Dist. of Columbia	26,421	2,678	107.1	99.8
Florida	92,924	20,384	110.9	78.2
Georgia	40,105	7,855	115.2	92.2
Idaho	11,415	492	214.5	89.3
Illinois	354,455	31,750	103.9	84.5
Indiana	125,217	4,076	101.0	76.8
Iowa	67,746	6,392	122.9	116.7
Kansas	26,710	3,541	112.9	98.4
Kentucky	77,412	2,698	80.3	60.6
Louisiana	72,209	6,278	102.1	135.1
Maine	25,758	2,334	136.1	89.5
Maryland	112,811	4,327	110.2	91.2
Massachusetts	81,261	9,498	107.2	87.5
Michigan	271,459	6,060	102.4	68.1
Minnesota	71,294	1,705	111.4	99.1
Mississippi	21,045	3,586	100.5	100.6
Missouri	121,492	30,194	109.2	181.4
Montana	17,202	1,871	119.3	101.7
Nebraska	32,333	2,432	139.9	141.6
Nevada	9,543	987	107.9	92.9
New Hampshire	15,526	1,570	116.6	90.1

Respondent's Exhibit 3

STATE	Industry Sales	A-B Sales	% To Previous Year	
			Industry	A-B
New Jersey	146,250	5,958	112.0	82.7
New Mexico	17,237	863	123.3	83.2
New York	382,240	15,627	106.0	81.4
North Carolina	38,017	7,304	101.8	70.1
North Dakota	15,144	1,033	148.0	141.3
Ohio	307,134	12,584	103.6	54.3
Oklahoma	32,784	2,544	111.8	109.5
Oregon	39,595	947	107.3	95.9
Pennsylvania		14,510		68.7
Rhode Island	21,870	2,233	111.5	85.3
South Carolina	16,004	4,551	84.4	74.9
South Dakota	11,068	601	113.7	99.0
Tennessee	49,591	6,877	94.5	66.6
Texas	278,074	12,571	109.8	85.6
Utah	9,154	304	105.6	93.8
Vermont	9,443	597	127.0	45.8
Virginia	59,818	16,311	119.7	91.3
Washington	66,332	1,657	114.3	136.9
West Virginia	32,574	1,684	100.5	74.0
Wisconsin	117,355	3,824	109.9	88.5
Wyoming	7,134	530	118.3	78.3
TOTAL U. S.		292,243		86.7

Respondent's Exhibit 3

(549)

**Anheuser-Busch and Industry Package Beer
Sales in Barrels and Percent to Previous Year
February 1955**

E—Estimated Package Draught Breakdown

X—From sources other than U.S.B.F.

STATE	Industry Sales	A-B Sales	% To Previous Year Industry	A-B
Alabama	29,122	5,071	102.2	87.5
Arizona	22,690	808	85.0	51.6
Arkansas	18,703	4,080	95.1	134.3
California—E	316,927	10,788	107.1	77.5
Colorado—E	26,304	1,611	94.2	80.6
Connecticut	49,534	4,444	96.7	88.8
Delaware	11,045	646	98.0	111.2
Dist. of Columbia	28,538	2,901	105.4	96.4
Florida	97,316	19,938	103.5	93.9
Georgia	40,481	7,286	127.5	86.5
Idaho	15,583	575	81.1	129.5
Illinois	260,779	31,083	106.9	91.2
Indiana	125,617	4,550	96.4	89.4
Iowa	60,752	5,171	107.9	105.3
Kansas	25,289	2,581	96.6	72.7
Kentucky	63,673	2,378	105.4	79.2
Louisiana—E	72,892	2,397	83.9	45.7
Maine	20,755	2,390	113.6	126.2
Maryland	87,226	3,627	96.7	88.5
Massachusetts—E	87,193	10,205	110.8	97.7
Michigan	261,841	5,927	96.4	75.4
Minnesota—E	69,175	1,671	91.7	99.6
Mississippi	17,896	1,893	87.0	75.6
Missouri	147,961	45,202	125.1	256.3
Montana—E	18,529	1,789	101.6	95.6
Nebraska	26,199	1,246	97.2	133.4
Nevada	10,562	937	114.0	54.8
New Hampshire	15,309	1,716	100.2	98.1

Respondent's Exhibit 3

STATE	<i>Industry Sales</i>	<i>A-B Sales</i>	<i>% To Previous Year</i>	
			<i>Industry</i>	<i>A-B</i>
New Jersey—E	154,467	6,256	97.0	72.5
New Mexico	14,250	844	85.8	42.6
New York—E	384,026	15,826	102.3	92.1
North Carolina	33,694	6,845	103.5	82.7
North Dakota	10,736	677	105.5	97.3
Ohio	279,104	11,335	96.7	66.2
Oklahoma	32,033	3,150	96.2	121.4
Oregon	35,983	685	109.1	163.9
Pennsylvania—X		10,613		67.3
Rhode Island	20,523	1,953	104.8	114.9
South Carolina	24,186	3,912	81.9	75.4
South Dakota	9,624	321	90.7	58.5
Tennessee	47,969	5,894	104.7	82.6
Texas—X	267,962	9,114	97.6	94.2
Utah	7,900	78	86.6	45.1
Vermont	9,355	1,176	114.5	97.8
Virginia	75,446	13,056	112.2	85.7
Washington	60,628	1,048	102.4	67.0
West Virginia	29,312	1,293	94.6	60.5
Wisconsin	114,759	3,226	97.2	74.6
Wyoming	6,531	599	102.1	97.2
TOTAL U. S.		280,812		

Respondent's Exhibit 3

(550)

**Anheuser-Busch and Industry Package Beer
Sales in Barrels and Percent to Previous Year
March 1955**

E—Estimated Package Draught Breakdown

X—From sources other than U.S.B.F.

STATE	Industry Sales	A-B Sales	% To Previous Year	
			Industry	A-B
Alabama	44,651	6,889	118.1	100.3
Arizona	32,240	1,877	106.6	115.4
Arkansas—E	28,604	4,199	119.6	82.4
California—E	562,635	20,280	116.9	92.4
Colorado	33,539	1,925	103.3	93.3
Connecticut	62,128	6,131	—	84.9
Delaware	15,055	763	104.1	96.6
Dist. of Columbia	33,048	3,334	100.5	102.0
Florida	123,325	28,893	117.7	106.5
Georgia	55,317	13,225	141.7	125.8
Idaho	13,587	941	95.9	90.3
Illinois	449,574	37,800	116.5	91.9
Indiana	160,116	5,488	104.4	76.2
Iowa	75,430	5,917	110.5	91.3
Kansas	32,821	4,321	108.4	88.3
Kentucky	63,791	2,763	62.8	76.3
Louisiana—E	95,920	5,012	108.0	59.2
Maine	25,831	3,302	91.1	92.3
Maryland	106,053	5,422	117.1	109.6
Massachusetts—E	111,060	13,652	101.9	100.8
Michigan	338,642	8,767	103.6	96.6
Minnesota—E	88,365	2,043	103.2	98.5
Mississippi	26,376	2,863	116.1	74.6
Missouri	140,239	28,878	97.9	129.0
Montana—E	21,246	1,837	95.7	65.6
Nebraska	38,261	2,714	108.1	94.4
Nevada	16,175	2,357	126.6	125.5
New Hampshire	17,525	2,294	105.1	77.8

Respondent's Exhibit 3

STATE	Industry Sales	A-B Sales	% To Previous Year Industry A-B	
New Jersey—E	196,412	9,461	103.6	83.8
New Mexico	23,632	1,696	129.4	118.6
New York—E	480,648	13,010	100.2	47.1
North Carolina	51,688	12,242	123.3	101.5
North Dakota	10,575	1,380	72.7	74.9
Ohio	360,288	14,411	106.9	87.0
Oklahoma	40,346	3,066	103.1	94.3
Oregon	41,084	1,352	97.2	80.5
Pennsylvania—X		18,535		99.4
Rhode Island	25,083	1,964	98.0	86.6
South Carolina	36,340	6,731	229.6	115.9
South Dakota	10,700	616	83.7	95.1
Tennessee	61,358	7,367	106.1	84.4
Texas—X	374,522	18,132	110.9	96.9
Utah	13,882	343	129.9	73.9
Vermont	11,322	1,376	104.8	83.1
Virginia	107,680	19,932	146.8	102.0
Washington	81,864	1,882	108.3	98.7
West Virginia	40,366	2,117	100.1	92.1
Wisconsin	134,921	4,806	—	84.6
Wyoming	8,709	1,007	94.0	74.2
TOTAL U. S.		365,343		

Respondent's Exhibit 3

(551)

**Anheuser-Busch and Industry Package Beer
Sales in Barrels and Percent to Previous Year
April 1955**

E—Estimated Package Draught Breakdown

X—From sources other than U.S.B.F.

STATE	Industry Sales	A-B Sales	% To Previous Year Industry	A-B
Alabama	53,540	8,423	128.5	116.6
Arizona	34,933	1,580	106.6	101.5
Arkansas	30,608	5,664	98.1	91.3
California—E	586,307	16,986	124.0	94.0
Colorado—E	38,025	1,784	109.2	80.4
Connecticut	65,509	7,268	98.2	76.2
Delaware	14,098	948	107.9	68.2
Dist. of Columbia	35,477	3,536	94.8	92.8
Florida	114,996	29,889	105.8	139.9
Georgia	73,076	15,450	137.9	129.1
Idaho	15,860	382	83.1	47.8
Illinois	367,070	43,254	102.0	103.5
Indiana	155,623	5,304	98.4	81.3
Iowa	87,889	7,394	124.7	135.2
Kansas	39,981	5,131	116.4	123.7
Kentucky	77,048	4,187	187.7	124.7
Louisiana—E	100,882	6,478	100.4	140.6
Maine	32,769	3,134	103.6	86.4
Maryland	112,709	5,383	102.7	84.6
Massachusetts—E	118,391	13,047	94.8	80.3
Michigan	378,040	10,528	107.2	112.9
Minnesota—E	107,673	2,030	115.1	93.6
Mississippi	27,029	4,185	94.5	88.6
Missouri	154,251	27,893	94.3	112.9
Montana—E	24,746	2,351	107.2	76.3
Nebraska	49,538	3,843	122.6	125.0
Nevada	14,524	714	109.5	32.1
New Hampshire	19,805	2,232	97.5	105.0

Respondent's Exhibit 3

STATE	Industry Sales	A-B Sales	% To Previous Year	
			Industry	A-B
New Jersey—E	205,771	9,398	101.0	87.9
New Mexico	22,852	1,289	101.7	57.7
New York—E	516,642	20,775	100.1	75.2
North Carolina	68,026	12,917	130.9	95.9
North Dakota	13,622	950	97.6	125.5
Ohio	360,978	17,205	100.2	95.8
Oklahoma	43,935	4,351	99.3	124.0
Oregon	42,571	836	93.7	72.0
Pennsylvania—X		17,443		83.5
Rhode Island	25,818	3,098	95.5	82.6
South Carolina	42,500	7,900	129.0	128.7
South Dakota	17,147	974	113.9	117.9
Tennessee	68,894	10,213	108.9	120.6
Texas—X	374,054	17,576	102.4	94.4
Utah	11,840	331	96.4	168.0
Vermont	13,343	1,362	108.0	115.2
Virginia	113,270	21,254	142.0	89.4
Washington	72,607	1,558	92.2	92.9
West Virginia	42,132	2,253	99.3	85.8
Wisconsin	145,933	4,390	107.0	91.8
Wyoming	8,807	809	96.1	74.6
TOTAL U. S.		395,880		

Respondent's Exhibit 3

(552)

**Anheuser-Busch and Industry Package Beer
Sales in Barrels and Percent to Previous Year
May 1955**

E—Estimated Package Draught Breakdown

X—From sources other than U.S.B.F.

STATE	Industry Sales	A-B Sales	% To Previous Year	
			Industry	A-B
Alabama	69,046	10,627	165.1	146.5
Arizona	39,748	1,634	114.0	117.6
Arkansas	30,682	7,223	111.0	152.0
California—E	445,524	15,800	89.6	80.4
Colorado—E	45,675	2,730	118.3	93.1
Connecticut	83,786	8,287	119.3	103.9
Delaware	17,072	945	117.0	71.5
Dist. of Columbia	39,939	3,932	121.1	116.3
Florida	120,295	18,048	115.7	81.0
Georgia	74,293	11,881	122.5	96.0
Idaho	24,657	422	116.0	69.4
Illinois	478,644	47,939	104.3	117.2
Indiana	182,739	7,345	110.6	121.9
Iowa	96,812	7,772	123.3	110.1
Kansas	43,484	5,821	121.8	108.3
Kentucky	118,487	5,711	128.3	146.1
Louisiana—E	115,672	7,976	105.8	194.4
Maine	39,166	4,485	123.1	93.6
Maryland	120,880	7,511	98.4	115.8
Massachusetts—E	137,516	18,502	105.6	96.9
Michigan	396,133	11,206	110.4	105.3
Minnesota—E	128,076	2,295	127.7	80.2
Mississippi	32,146	4,551	117.3	132.3
Missouri	178,410	30,977	109.9	126.2
Montana—E	28,154	3,084	101.0	98.8
Nebraska	54,759	3,575	113.9	90.1
Nevada	17,034	1,572	111.8	81.3
New Hampshire	24,120	3,310	115.6	108.0

Respondent's Exhibit 3

STATE	<i>Industry Sales</i>	<i>A-B Sales</i>	<i>% To Previous Year</i>	
			<i>Industry</i>	<i>A-B</i>
New Jersey—E	258,316	13,129	125.3	122.5
New Mexico	24,216	1,747	88.0	83.8
New York—E	611,417	27,153	109.5	90.0
North Carolina	67,333	13,845	116.7	117.3
North Dakota	14,773	1,352	97.9	75.4
Ohio	414,048	19,605	113.6	94.2
Oklahoma	47,623	2,621	114.6	49.4
Oregon	49,846	888	102.0	120.3
Pennsylvania—X		19,016		91.5
Rhode Island	31,041	3,424	109.3	95.6
South Carolina	54,490	6,685	182.6	96.5
South Dakota	21,228	786	127.2	91.8
Tennessee	74,094	9,925	113.5	128.7
Texas—X	413,785	17,012	109.9	120.5
Utah	13,246	322	97.2	45.7
Vermont	16,392	1,444	92.8	61.5
Virginia	113,849	20,589	102.8	91.5
Washington	85,409	1,409	103.9	60.0
West Virginia	48,716	3,625	119.9	121.6
Wisconsin	197,195	7,711	124.2	129.9
Wyoming	12,535	1,389	119.2	118.2
TOTAL U. S.		428,838		

Respondent's Exhibit 3

(553)

**Anheuser-Busch and Industry Package Beer
Sales in Barrels and Percent to Previous Year
June 1955**

X—From sources other than U.S.B.F.

STATE	<i>Industry Sales</i>	<i>A-B Sales</i>	<i>% To Previous Year Industry</i>	<i>A-B</i>
Alabama	31,138	5,217	68.7	96.4
Arizona		1,502		129.4
Arkansas	28,808	4,927	91.4	107.5
California		21,081		113.6
Colorado		2,185		91.3
Connecticut	98,730	6,396	100.7	110.0
Delaware	22,850	1,362	97.9	178.5
Dist. of Columbia	41,806	4,148	95.2	98.1
Florida	119,834	23,576	112.9	154.4
Georgia		13,294		145.4
Idaho	31,554	1,082	147.1	149.9
Illinois	477,146	46,351	97.0	95.0
Indiana	197,171	7,385	93.6	131.7
Iowa	86,323	7,204	89.5	95.9
Kansas	44,937	4,385	84.3	83.0
Kentucky	76,839	2,997	70.2	72.2
Louisiana		4,861		89.6
Maine	42,442	4,657	100.4	89.6
Maryland	170,846	5,894	113.1	79.9
Massachusetts		18,656		112.8
Michigan	472,137	13,657	99.1	106.0
Minnesota		3,149		96.1
Mississippi	30,303	3,702	98.8	108.2
Missouri	183,892	32,156	90.0	86.6
Montana		2,873		96.3
Nebraska	49,394	3,116	93.0	97.5
Nevada	17,583	2,230	101.0	117.7
New Hampshire		3,305		97.3

Respondent's Exhibit 3

STATE	<i>Industry Sales</i>	<i>A-B Sales</i>	<i>% To Previous Year</i>	
			<i>Industry</i>	<i>A-B</i>
New Jersey		14,525		94.5
New Mexico	33,910	1,763	124.3	127.8
New York		28,700		105.2
North Carolina	43,437	11,049	88.3	117.9
North Dakota	22,088	1,926	109.8	147.8
Ohio	471,788	19,139	97.5	97.8
Oklahoma	51,782	3,909	94.6	131.0
Oregon	61,040	1,878	112.5	179.7
Pennsylvania		18,620		87.6
Rhode Island	38,513	3,020	101.9	92.1
South Carolina	45,931	8,913	144.9	130.9
South Dakota	18,683	909	92.9	—
Tennessee	70,638	10,228	91.2	120.9
Texas—X	417,843	13,986	105.8	96.3
Utah	17,319	558	111.7	104.3
Vermont	19,581	2,946	110.2	162.6
Virginia	104,451	19,322	92.8	130.7
Washington	102,656	2,096	117.8	100.3
West Virginia	51,398	2,773	95.9	118.3
Wisconsin	179,437	6,201	89.0	96.5
Wyoming		963		56.4
TOTAL U. S.		424,782		

Respondent's Exhibit 3

(554)

**Anheuser-Busch and Industry Package Beer
Sales in Barrels and Percent Change
1954**

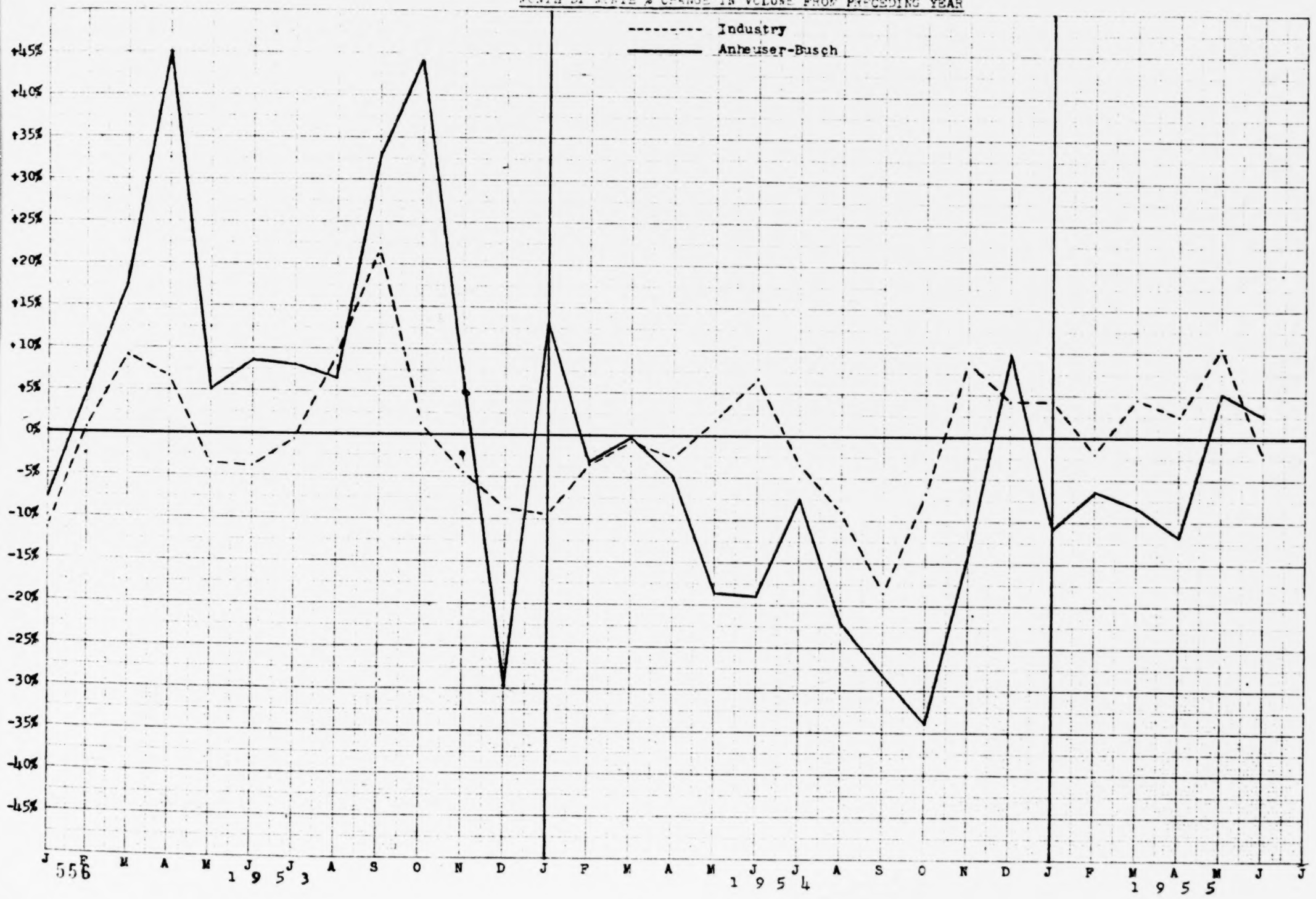
	Industry Sales Package Beer Bbls.	AB Sales Package Beer Bbls.	% Change from Previous Year		AB % to Industry	
			Industry	AB	1954	1953
Ala.	454,687	77,986	— 7.0	— 23.1	17.2	20.7
Ariz.	371,860	15,891	— 1.1	— 37.4	4.3	6.8
Ark.	305,492	53,888	— 3.9	— 23.2	17.6	22.1
Calif.	5,517,556	215,115	— 1.1	— 19.3	3.9	4.8
Colo.	436,105	27,171	+ 18.9	— 21.2	6.2	9.4
Conn.	848,380	74,037	— 3.8	— 13.5	8.7	9.7
Del.	185,825	10,787	— 1.6	— 24.0	5.8	7.5
D. C.	428,774	41,775	— 8.4	— 16.7	9.7	10.7
Fla.	1,212,669	246,581	+ 2.8	— 9.1	20.3	23.0
Ga.	551,500	115,673	— 3.7	— 11.5	21.0	22.8
Idaho	207,582	7,882	— 3.7	— 34.1	3.8	5.5
Ill.	4,504,233	485,514	— 4.9	— 5.3	10.8	10.8
Ind.	1,929,302	69,051	— 4.4	— 23.1	3.6	4.4
Iowa	887,688	74,119	+ 2.3	— 11.0	8.3	9.6
Kan.	451,041	52,589	+ 1.1	— 11.3	11.7	13.3
Ky.	1,081,428	42,806	+ 9.9	— 23.3	4.0	5.7
La.	1,171,617	59,827	+ 1.1	— 18.0	5.1	6.3
Me.	346,292	37,461	— 6.7	— 18.2	10.8	12.3
Md.	1,444,530	65,906	— 5.1	— 17.9	4.6	5.3
Mass.	1,395,273	171,372	— 2.2	— 16.0	12.3	14.3
Mich.	4,222,424	115,328	— 3.4	— 21.5	2.7	3.4
Minn.	1,156,411	27,705	— 0.3	— 18.3	2.4	2.9
Miss.	310,483	40,645	— 4.0	— 13.6	13.1	14.5
Mo.	1,892,637	412,592	+ 3.5	+ 70.1	21.8	13.3
Mont.	294,857	28,906	— 0.2	— 21.3	9.8	12.4
Neb.	477,065	33,757	— 1.2	— 13.6	7.1	8.1
Nev.	157,567	18,904	+ 9.2	— 21.5	12.0	16.7
N. H.	252,073	25,909	— 4.1	— 20.2	10.3	12.4
N. J.	2,592,901	126,465	— 2.7	— 19.6	4.9	5.9
N. M.	254,784	19,280	+ 0.2	— 26.7	7.6	10.3

Respondent's Exhibit 3

**Anheuser-Busch and Industry Package Beer
Sales in Barrels and Percent Change
1954 (Cont'd)**

	<i>Industry Sales Package Beer Bbls.</i>	<i>AB Sales Package Beer Bbls.</i>	<i>% Change from Previous Year</i>		<i>AB % to Indus 1954</i>	
			<i>Industry</i>	<i>AB</i>		
N. Y.	6,336,108	290,365	— 4.1	— 18.1	4.6	
N. C.	551,459	125,499	— 6.7	— 16.7	22.8	
N. D.	182,594	14,014	— 4.2	— 18.3	7.7	
Ohio	4,425,656	204,434	— 1.3	— 28.1	4.6	
Okla.	523,702	37,790	+ 1.0	— 31.8	7.2	
Ore.	518,133	12,874	— 8.2	— 34.1	2.5	
Penn.	4,998,654	223,415	— 4.6	— 26.7	4.5	
R. I.	335,227	31,479	— 7.5	— 20.8	9.4	
S. C.	325,142	72,776	— 5.9	— 6.8	22.4	
S. D.	180,374	9,177	+ 0.9	— 2.1	5.1	
Tenn.	734,656	98,435	— 4.3	— 13.4	13.4	
Texas	4,032,418	174,435	+ 0.3	— 29.0	4.3	
Utah	148,572	4,570	— 2.2	— 37.4	3.1	
Ver.	152,818	17,830	— 9.0	— 10.2	11.7	
(555)						
Va.	948,711	217,601	— 18.2	— 13.3	22.9	
Wash.	910,417	20,631	— 2.8	— 33.4	2.3	
W. Va.	492,361	28,067	— 8.0	— 27.0	5.7	
Wisc.	1,812,102	61,947	— 3.6	— 6.1	3.4	
Wyo.	119,738	12,790	+ 1.4	— 21.0	10.7	
TOTAL U. S.	63,071,878	4,453,051	— 2.6	— 13.6	7.1	

Respondent's Exhibit 4
MONTH BY MONTH % CHANGE IN VOLUME FROM PRECEDING YEAR



Excerpts From Respondent's Exhibit 12

(563)

Mr. J. E. Barsi

April 9, 1954

Mr. J. Hallquist, Jr.

Special Survey

Distribution of the Special Survey forms to the Regional Managers has been completed.

The attached includes a full set of the forms together with the various markets selected for completion of the survey.

J. Hallquist, Jr.

Att.

• • •

Excerpts From Respondent's Exhibit 12

(565)

April 5, 1954

To All Regional Managers:

The attached instruction letter and market sales analysis form is self-explanatory.

I would like each of your District Managers and Major Market Supervisors to proceed as quickly as possible to the *single market* selected for them and to thoroughly investigate all of the market conditions and trends in order to complete and forward as quickly as possible the questionnaire form.

Branches likewise—where sales are on a declining basis—are to complete and return the questionnaire by the date indicated.

You and the assistant regional manager are each also to conduct a similar investigation in a single market, returning the completed form to reach me by the indicated date.

Copies of all reports from your region will be duplicated in St. Louis and sent to you in order that you can plan on a Region-wide basis, and to make recommendations to individual wholesalers, district managers and to management at St. Louis.

Your usual fine cooperation will be appreciated.

J. E. Barsi

Excerpts From Respondent's Exhibit 12

(566)

ANHEUSER-BUSCH, INC.

INTER-OFFICE CORRESPONDENCE

To { Regional Managers
 District Managers
 Major Market Supervisors

From Mr. J. E. Barsi

Date April 9, 1954

Subject Special Survey
 (market)

The continued decline of Budweiser packaged beer sales in certain markets is of grave concern to me as it must be to you. It is important at this time to determine just what is causing sales decreases, then to formulate and execute plans for corrective action.

In order that concrete facts be assembled as quickly as possible in a systematic and uniform manner you are asked to visit only *one* market where sales are declining to prepare the attached report.

Section I of the report deals with information available from the wholesaler's records and can be inserted by wholesaler's personnel. Pricing information in the retail outlets, if not already recorded, can easily be obtained if each salesman or driver salesman of the wholesaler accumulates the information for his territory on a simple tally sheet.

Excerpts From Respondent's Exhibit 12

Section II of the report is to be completed *by you* from information gathered from as many reliable sources as possible. You are to visit other brewers, competitive wholesalers, liquor boards, reporting services, (if available) newspapers, Chamber of Commerce offices and state or federal employment agencies. Every effort should be made to accumulate accurate, factual information to help you, your Regional Manager and St. Louis executives in intelligently meeting the problems that exist.

It is important, also, that this report be received in St. Louis as soon as possible. It is estimated that not more than one week will be required for assembly of the information and preparation of the report. Your report, therefore, should be received in St. Louis not later than April 26th.

Only one copy is sent you. Upon its receipt in St. Louis your report will be duplicated mechanically and a copy will be sent to your Regional Manager and to you for your files.

Do not discuss with other brewers or competitive wholesalers the contents of the questionnaire form.

J. E. Barsi

Excerpts From Respondent's Exhibit 12

(567)

SPECIAL SURVEY
NORTH ATLANTIC REGION

<i>District</i>	<i>Market</i>	<i>Percent Decrease 2 months Sales Package</i>	<i>Tentative Survey to be Handled by</i>
101	Manchester, N. H.	42	District Manager
103	Cumberland Hill, R. I.	29	Regional Manager
103	East Hartford, Conn.		District Manager
104	Glen Falls, N. Y.	27	District Manager
102	Worcester, Mass.	18	District Manager
104	Albany, N. Y.	24	Ass't. Reg. Mgr.
	Boston	21	
	Bronx	13	
	Manhattan	7	
	Westbury	6	
	Syracuse, N. Y.		

Excerpts From Respondent's Exhibit 12

(68)

SPECIAL SURVEY**MID ATLANTIC REGION**

<i>strict</i>	<i>Market</i>	<i>Percent Decrease 2 Months Sales Packaged</i>	<i>Tentative Manpower Assignment</i>
101	Trenton, N. J.	14	District Manager
102	Philadelphia, Pa.	28	Major Mkt. Sup'vr.
	Lansdale, Pa.	21	District Manager
103	Pittsburgh, Pa.	16	Major Mkt. Sup'vr.
	New Castle, Pa.	42	District Manager
104	Upper Marlboro, Md.	8	District Manager
101	New Brunswick, N. J.	26	Regional Manager
102	Harrisburg, Pa.	25	Ass't. Reg. Mgr.
	Washington, D. C.	14	
	Baltimore, Md.	9	
	Kearny, N. J.	12	

Excerpts From Respondent's Exhibit 12

(569)

SPECIAL SURVEY**SOUTH ATLANTIC REGION**

<i>District</i>	<i>Market</i>	<i>Percent Decrease 2 Months Sales Packaged</i>	<i>Tentative Manpower Assignment</i>
301	Newport News, Va.	14	District Manager
302	Greensboro, N. C.	22	District Manager
303	Charleston, S. C.	14	District Manager
304	Atlanta, Ga.	2	District Manager
305	St. Petersburg, Florida	14	District Manager
306			
307	Danville, Va.	14	District Manager
301	Norfolk, Va.	12	Regional Manager
302	Durham, N. C.	16	Ass't. Reg. Mgr.

Excerpts From Respondent's Exhibit 12

(570)

SPECIAL SURVEY**EAST NORTH CENTRAL REGION**

<i>District</i>	<i>Market</i>	<i>Percent Decrease 2 Months Sales Packaged</i>	<i>Tentative Personnel Assignment</i>
401	Norway, Mich.	34	District Manager
402	Pontiac, Mich.	3	District Manager
403	Cleveland, O. (National)	15	Major Mkt. Sup'vr.
	Cleveland, O. (Drenik)	15	Regional Manager
	Canton, O.	21	District Manager
	Akron, O.	23	Ass't. Reg. Mgr.
404	Columbus, O.	27	District Manager
405	Wheeling, W. Va.	13	District Manager
406	Louisville, Ky.	18	District Manager
407	Memphis, Tenn.	11	District Manager
	Detroit, Mich.	18	
	Cincinnati, O.	18	

Excerpts From Respondent's Exhibit 12

(571)

SPECIAL SURVEY**WEST NORTH CENTRAL REGION**

<i>District</i>	<i>Market</i>	<i>Percent Decrease 2 Months Sales Packaged</i>	<i>Tentative Personnel Assignment</i>
501	Milwaukee, Wis.	3	District Manager
502	Lafayette, Ind.	10	District Manager
503	Indianapolis, Ind.	11	District Manager
504	Rock Island, Ill.	2	District Manager
505	Lawrenceville, Ill.	2	District Manager
504	Chicago (Zepp-Schuster)	2	Ass't. Reg. Mgr.

Excerpts From Respondent's Exhibit 12

(572)

SPECIAL SURVEY
SOUTHERN REGION

<i>District</i>	<i>Market</i>	<i>Percent Decrease 2 Months Sales Packaged</i>	<i>Tentative Personnel Assignment</i>
601	Birmingham, Ala.	7	District Manager
602	Clarksdale, Miss.	10	District Manager
603	Texarkana, Ark.	21	District Manager
604	Lake Charles, La.	15	District Manager
605	Oklahoma City, Okla.	22	District Manager
	Tulsa, Okla.	14	Regional Manager
606	Beaumont, Texas	13	District Manager
	Dallas, Texas	13	Major Mkt. Sup'vr.
	Ft. Worth, Texas	6	Major Mkt. Sup'vr.
607	Amarillo, Texas	40	Ass't. Reg. Mgr.
	Wichita Falls, Texas	5	District Manager
608	Corpus Christi, Texas	+ 1	Major Mkt. Sup'vr.
	Galveston, Texas		District Manager
	Houston, Texas	8	

Excerpts From Respondent's Exhibit 12

(573)

SPECIAL SURVEY**MIDWEST REGION**

<i>District</i>	<i>Market</i>	<i>Percent Decrease 2 Months Sales Packaged</i>	<i>Tentative Personnel Assignment</i>
701	Rochester, Minn.	18	District Manager
702	Minot, N. D.	29	District Manager
704	Omaha, Nebraska	21	Regional Manager
	Lincoln, Nebraska	10	District Manager
705	Lebanon, Mo.	18	District Manager
706	Wichita, Kansas	6	District Manager
702	Rapid City, S. D.	30	Ass't. Reg. Mgr.
	Cedar Rapids, Iowa		

Excerpts From Respondent's Exhibit 12

(574)

SPECIAL SURVEY**MOUNTAIN & PACIFIC REGION**

<i>District</i>	<i>Market</i>	<i>Percent Decrease 2 Months Sales Packaged</i>	<i>Tentative Personnel Assignment</i>
801	Billings, Montana	17	District Manager
802	Seattle, Wash.	17	District Manager
	Tacoma, Wash.	28	Ass't. Reg. Mgr.
803	Boise, Idaho		District Manager
804	Portland, Ore.	29	District Manager
805	Pueblo, Colo.		District Manager
806	Salt Lake City, Utah	33	District Manager
807	Phoenix, Ariz.	26	Regional Manager
	Tucson, Ariz.	36	District Manager
808	Sacramento, Calif.	12	District Manager
809	Santa Ana, Calif.		Ass't. Reg. Mgr.
810	Watsonville, Calif.	20	District Manager
811	Spokane, Wash.		District Manager
	San Diego, Calif.	17	
	Los Angeles, Calif.	2	
	San Francisco, Calif.	4	

Respondent's Exhibit 14-A

(587)

**Wholesalers Sales to Retailers—Package Beer Cases
1952—1955**

STATISTICAL CASES

	1952	1953	1954	1955
January	4,387,168	4,094,960	3,629,756	3,603,782
February	3,762,827	4,160,525	4,061,959	3,940,801
2 months	8,149,995	8,255,485	7,691,715	7,544,583
March	3,852,901	5,009,440	4,714,669	4,383,982
3 months	12,002,896	13,264,925	12,406,384	11,928,565
April	4,561,819	5,485,550	5,168,450	4,653,541
4 months	16,564,715	18,750,475	17,574,834	16,582,057
May	5,396,578	6,092,016	5,034,269	5,443,069
5 months	21,961,293	24,842,491	22,609,103	22,025,126
June	6,467,313	8,127,593	6,442,482	5,981,280
6 months	28,428,606	32,970,084	29,051,585	28,006,406
July	7,421,371	8,777,535	6,772,357	6,455,599
7 months	35,849,977	41,747,619	35,823,942	34,462,005
August	6,264,164	7,153,214	6,271,139	6,582,717
8 months	42,114,141	48,900,833	42,095,081	41,044,722
September	5,616,350	7,361,301	5,574,426	5,529,139
9 months	47,730,491	56,262,134	47,669,507	46,573,861
October	5,244,511	5,408,418	4,818,907	4,557,904
10 months	52,975,002	61,670,552	52,488,414	51,131,765
November	4,568,427	4,349,480	4,516,346	
11 months	57,543,429	66,020,032	57,004,760	
December	5,305,680	5,038,833	4,777,739	
12 months	62,849,109	71,058,865	61,782,499	

Schedule of City Sales Department Employees

	JANUARY 1-15 16-31		FEBRUARY 1-15 16-28		MARCH 1-15 16-31		APRIL 1-15 16-30		MAY 1-15 16-31		JUNE 1-15 16-30		JULY 1-15 16-31		AUGUST 1-15 16-31		SEPTEMBER 1-15 16-30		OCTOBER 1-15 16-31		NOVEMBER 1-15 16-30		DECEMBER 1-15 16-30	
BRANCH MANAGER																								
1952	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
1953	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
1954	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
1955	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
SALES SUPERVISOR																								
1952																			1	1	1	1	1	1
1953	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	2	2	2	2
1954	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2
1955	2	2	3	3	3	3	3	3	3	3	3	3	2	2	2	2	2	2	2	2	2	2	2	2
SALESMEN																								
1952	14	13	13	13	13	13	13	13	12	12	13	13	13	13	13	13	13	13	13	13	13	12	13	13
1953	13	13	13	13	14	15	15	16	16	16	16	16	16	16	18	18	16	16	17	17	19	19	17	18
1954	18	18	18	19	19	20	20	19	19	19	20	20	19	19	20	21	21	21	22	21	21	20	20	20
1955	19	19	23	29	32	32	32	32	32	26	26	26												
OFFICE MANAGER																								
1952	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
1953	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
1954	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
1955	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
OFFICE-CLERICAL																								
1952	19	19	19	18	17	17	17	18	17	18	18	18	18	18	18	18	18	18	18	18	18	18	18	18
1953	18	18	19	19	19	19	19	18	18	18	18	19	19	19	19	19	19	20	19	19	19	19	17	18
1954	19	19	18	18	18	18	18	17	18	18	18	18	21	22	22	23	24	24	22	21	20	20	20	20
1955	19	19	20	21	20	20	20	20	20	20	20	20												
DELIVERY MANAGER																								
1952	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
1953	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
1954	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
1955	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
DELIVERY-CLERICAL																								
1952	10	10	10	10	9	9	9	9	9	9	9	9	9	9	9	9	9	9	9	9	9	9	9	9
1953	8	8	8	8	8	8	8	9	9	9	9	10	10	11	11	11	10	11	11	11	10	10	10	11
1954	10	10	10	10	11	11	11	11	11	11	11	11	16	16	16	18	19	19	18	17	17	18	17	17
1955	17	17	16	16	17	16	16	16	16	16	16	16												
COIL CLEANERS & SERVICEMEN																								
1952 Average	6		6		6 $\frac{2}{5}$		6 $\frac{1}{2}$		6 $\frac{1}{2}$		7 $\frac{1}{5}$		7		6 $\frac{2}{5}$		6 $\frac{1}{2}$		6 $\frac{1}{2}$		6 $\frac{3}{5}$		6 $\frac{1}{2}$	
1953 Average	6 $\frac{1}{2}$		6 $\frac{1}{2}$		6 $\frac{2}{5}$		6 $\frac{1}{2}$		7 $\frac{1}{5}$		6 $\frac{3}{4}$		6 $\frac{1}{4}$		7		6 $\frac{1}{2}$		6 $\frac{1}{2}$		6 $\frac{3}{5}$		6 $\frac{1}{2}$	
1954 Average	6 $\frac{2}{5}$		6 $\frac{1}{2}$		6 $\frac{1}{2}$		6 $\frac{1}{2}$		6 $\frac{3}{5}$		7 $\frac{3}{4}$		8		7 $\frac{1}{5}$		7		7		7		7	
1955 Average	7		7		7		7		7 $\frac{2}{5}$		7 $\frac{3}{4}$													
DRIVERS																								
1952 Average	69 $\frac{1}{4}$		66 $\frac{1}{2}$		71 $\frac{2}{5}$		85 $\frac{3}{4}$		73		88		97		92 $\frac{1}{5}$		84		81 $\frac{3}{4}$		79 $\frac{2}{5}$		81	
1953 Average	76 $\frac{3}{4}$		76 $\frac{1}{2}$		79 $\frac{1}{5}$		87 $\frac{3}{4}$		90 $\frac{2}{5}$		109 $\frac{3}{4}$		105 $\frac{3}{4}$		110 $\frac{2}{5}$		111 $\frac{1}{4}$		101 $\frac{3}{4}$		92		92 $\frac{1}{4}$	
1954 Average	89 $\frac{2}{5}$		94 $\frac{1}{2}$		97 $\frac{1}{4}$		96 $\frac{3}{4}$		107 $\frac{2}{5}$		133 $\frac{1}{4}$		228 $\frac{3}{4}$		239 $\frac{1}{5}$		224 $\frac{1}{2}$		188 $\frac{1}{5}$		162 $\frac{3}{4}$		172 $\frac{1}{4}$	
1955 Average	169		202 $\frac{3}{4}$		179 $\frac{1}{2}$		156 $\frac{1}{2}$		143 $\frac{1}{5}$		145 $\frac{1}{4}$													

Respondent's Exhibit 18

ST. LOUIS and ST. LOUIS COUNTY — PACKAGE BEER BY BREWERS

SEP 9 1955

ANHEUSER-BUSCH INC.

F A L S T A F F

GRIESEDIECK BROS.

GRIESEDIECK WESTERN

COLUMBIA

HYDRO

	Statistical Cases	Share of Total	% Change Previous Year	Statistical Cases	Share of Total	% Change Previous Year	Statistical Cases	Share of Total	% Change Previous Year	Statistical Cases	Share of Total	% Change Previous Year	Statistical Cases	Share of Total	% Change Previous Year	Statistical Cases
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1955

Jan.	274,513	33.2	+ 155.9	250,185	30.2	— 0.2	44,140	5.3	— 55.6	223,736	27.0	— 18.1				
Feb.	497,598	39.3	+ 309.1	369,373	29.1	+ 32.0	60,354	4.8	— 43.7	293,226	23.1	+ .5				
Mar.	193,478	24.5	+ 48.1	233,447	29.5	— 25.3	68,314	8.6	— 44.7	206,696	26.1	— 38.9				
April	182,651	19.5	+ 10.1	351,055	37.5	+ .6	67,932	7.3	— 52.3	271,067	28.9	— 23.0				
May	217,584	19.0	+ 31.5	431,846	37.7	+ 24.6	84,108	7.3	— 39.0	332,132	29.0	— 4.3				
June	257,641	21.0	— 19.5	461,963	37.7	+ 10.1	89,437	7.3	— 43.4	340,930	27.8	— 17.7				
July	283,564	21.9	— 47.8	498,260	38.4	+ 34.0	87,713	6.8	— 27.0	348,354	26.8	+ 13.4				
Aug.																
Sept.																
Oct.																
Nov.																
Dec.																
TOTAL																

1954

Jan.	107,283	14.0	+ 25.1	250,712	32.7	+ 16.6	99,493	13.0	— 14.7	273,193	35.7	— 12.3				
Feb.	121,620	14.5	+ 36.8	279,860	33.4	+ 27.0	107,151	12.8	— 12.7	291,829	34.9	— 11.6				
Mar.	130,663	13.8	+ 31.3	312,598	32.9	+ 24.0	123,552	13.0	— 10.3	338,061	35.6	— 10.3				
Apr.	165,853	15.6	+ 41.3	349,016	32.6	+ 27.8	142,410	13.3	— 1.3	352,193	32.9	— 10.5				
May	165,526	15.5	+ 16.5	346,504	32.3	+ 9.1	137,814	12.9	— 16.2	347,192	32.4	— 22.6				
June	320,127	22.6	+ 86.0	419,739	29.6	+ 4.5	158,098	11.2	— 21.9	414,170	29.2	— 28.9				
July	542,779	37.6	+ 206.7	371,790	25.7	— 8.2	120,201	8.3	— 46.2	307,126	21.3	— 47.1				
Aug.	475,897	37.3	+ 190.9	332,896	26.1	— 9.7	101,682	8.0	— 32.7	280,749	22.0	— 32.3				
Sept.	457,966	37.5	+ 199.6	326,809	26.8	— 9.4	96,171	7.9	— 39.4	260,146	21.3	— 40.3				
Oct.	374,994	35.7	+ 163.2	295,031	28.1	— 12.0	81,672	7.8	— 42.8	236,158	22.5	— 36.7				
Nov.	335,326	34.1	+ 196.7	289,066	29.4	— 0.3	86,667	8.8	— 30.5	224,497	22.9	— 29.7				
Dec.	421,575	38.1	+ 194.3	324,994	29.4	— 7.2	87,256	7.9	— 39.8	239,697	21.7	— 37.7				
TOTAL	3,619,609	27.4	+ 126.5	3,899,015	29.6	+ 3.9	1,342,167	10.2	— 26.8	3,565,011	27.0	— 28.0				

(590)

SOURCE OF DATA ON SCHEDULES ENTITLED "ST. LOUIS AND ST. LOUIS COUNTY PACKAGE BEER BY BREWERS"

1938 through 1943—Original reports filed by brewers with State of Missouri.

1944 through 1955—Missouri Brewers Association monthly reports of sales in Missouri showing total sales in Missouri for each brewery and also sales in St. Louis and St. Louis County for each brewer.

1) **PACKAGE BEER BY BREWERS**

COLUMBIA			HYDE PARK			ALL OTHERS			T O T A L		
<i>Statistical</i> <i>Cases</i>	<i>Share</i> <i>of</i> <i>Total</i>	<i>%</i> <i>Change</i> <i>Previous</i> <i>Year</i>	<i>Statistical</i> <i>Cases</i>	<i>Share</i> <i>of</i> <i>Total</i>	<i>%</i> <i>Change</i> <i>Previous</i> <i>Year</i>	<i>Statistical</i> <i>Cases</i>	<i>Share</i> <i>of</i> <i>Total</i>	<i>%</i> <i>Change</i> <i>Previous</i> <i>Year</i>	<i>Statistical</i> <i>Cases</i>	<i>Share</i> <i>of</i> <i>Total</i>	<i>%</i> <i>Change</i> <i>Previous</i> <i>Year</i>
						35,209	4.3	— 0.6	827,783	100%	+ 8.1
						47,324	3.7	+ 28.7	1,267,875	100%	+ 51.4
						88,974	11.3	+ 99.8	790,909	100%	— 16.7
						63,752	6.8	+ 5.9	936,457	100%	— 12.5
						80,569	7.0	+ 9.3	1,146,239	100%	+ 7.0
						76,762	6.2	— 26.9	1,226,733	100%	— 13.4
						79,160	6.1	— 21.4	1,297,051	100%	— 10.1
						35,407	4.6	+ 12.5	766,088	100%	+ 0.8
						36,765	4.4	+ 20.1	837,225	100%	+ 5.6
						44,535	4.7	+ 19.6	949,409	100%	+ 5.1
						60,183	5.6	+ 41.4	1,069,655	100%	+ 10.2
						73,729	6.9	+ 103.4	1,070,765	100%	— 3.5
						105,050	7.4	+ 92.6	1,417,184	100%	+ 0.3
						106,677	7.1	+ 107.4	1,442,573	100%	+ 0.5
						85,897	6.6	+ 0.2	1,277,121	100%	+ 10.2
						79,409	6.5	— 1.8	1,220,501	100%	+ 3.8
						62,612	5.9	— 15.6	1,050,467	100%	— 1.6
						46,412	4.8	+ 22.0	981,968	100%	+ 11.0
						32,468	2.9	— 33.2	1,105,990	100%	+ 3.2
						763,144	5.8	+ 25.4	13,188,946	100%	+ 3.5

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Respondent's Exhibit 18

ST. LOUIS and ST. LOUIS COUNTY — PACKAGE BEER BY BREWERS

ANHEUSER-BUSCH INC.			F A L S T A F F			GRIESEDIECK BROS.			GRIESEDIECK WESTERN			COLUMBIA			HYDE PARK	
Statistical Cases	Share of Total	% Change Previous Year	Statistical Cases	Share of Total	% Change Previous Year	Statistical Cases	Share of Total	% Change Previous Year	Statistical Cases	Share of Total	% Change Previous Year	Statistical Cases	Share of Total	% Change Previous Year	Statistical Cases	Share of Total
85,729	11.3	+ 4.7	215,040	28.3	— 12.0	116,656	15.3	— 34.0	311,344	41.0	— 32.2					
88,927	11.2	+ 45.8	220,391	27.8	+ 29.6	122,778	15.5	+ 6.6	329,953	41.6	+ 8.0					
99,533	11.0	+ 56.3	252,181	27.9	+ 32.9	137,717	15.3	+ 1.0	376,883	41.7	+ 14.2					
117,354	12.1	+ 28.1	273,004	28.1	+ 7.6	144,341	14.9	— 23.3	393,640	40.5	— 9.9					
142,140	12.8	+ 66.9	317,614	28.6	+ 14.6	164,443	14.8	— 13.4	448,784	40.5	— 7.6					
172,104	12.2	+ 53.3	401,583	28.4	+ 26.3	202,440	14.3	— 7.4	582,937	41.2	+ 2.6					
176,980	12.3	+ 38.2	405,305	28.2	+ 17.0	223,471	15.6	— 4.6	581,347	40.5	+ 0.6					
163,592	14.1	+ 38.0	343,642	29.7	+ 12.8	151,107	13.0	— 24.8	414,839	35.8	— 14.2					
152,884	13.0	+ 51.5	347,083	29.5	+ 25.3	158,743	13.5	— 9.2	436,018	37.1	—					
142,448	13.3	+ 35.0	335,230	31.4	+ 22.4	142,721	13.4	— 13.2	373,298	35.0	— 8.0					
113,020	12.8	+ 18.3	289,804	32.7	+ 21.8	124,625	14.1	— 10.2	319,452	36.1	— 10.3					
143,238	13.4	+ 28.4	350,029	32.7	+ 20.9	145,058	13.5	— 13.3	384,561	35.9	— 7.6					
TOTAL 1,597,949	12.5	+ 38.3	3,750,906	29.4	+ 17.9	1,834,100	14.4	— 12.9	4,953,056	38.9	— 5.8					
81,915	8.2	+ 29.7	244,262	24.6	+ 13.3	176,779	17.8	+ 23.3	459,400	46.2	+ 26.9					
61,008	9.0	— 0.1	170,076	25.1	— 14.6	115,133	17.0	— 18.1	305,390	45.1	— 13.6					
63,661	8.5	— 13.6	189,692	25.4	— 16.8	136,325	18.2	— 13.5	330,154	44.2	— 19.8					
91,612	9.1	+ 21.1	253,685	25.1	+ 14.5	188,208	18.6	+ 19.0	436,823	43.3	+ 9.8					
85,179	7.9	— 14.3	277,162	25.7	+ 3.9	189,918	17.6	— 5.7	485,536	45.0	— 22.4					
112,268	8.9	+ 15.5	318,028	25.1	+ 18.5	218,555	17.3	+ 13.6	568,021	44.8	— 9.5					
128,087	9.6	+ 33.6	346,359	26.0	+ 24.5	234,192	17.6	+ 15.0	577,736	43.5	— 4.9					
118,519	10.3	+ 9.8	304,564	26.6	+ 2.6	201,019	17.6	— 9.4	483,363	42.2	— 21.3					
109,929	9.9	+ 18.9	277,109	27.3	+ 21.0	174,766	17.2	+ 2.5	436,139	42.9	— 2.4					
105,480	10.7	+ 43.6	273,976	27.8	+ 8.2	164,502	16.7	— 8.3	405,611	41.2	— 17.4					
95,566	11.2	+ 30.6	238,005	28.0	+ 0.5	138,821	16.3	— 16.6	356,288	41.8	— 14.3					
111,579	11.0	+ 47.8	289,575	28.4	+ 39.2	167,368	16.4	+ 13.6	416,296	40.8	+ 8.4					
TOTAL 1,155,803	9.5	+ 17.8	3,182,493	26.3	+ 9.7	2,105,586	17.4	+ 1.1	5,260,757	43.4	— 8.3					

PACKAGE BEER BY BREWERS

COLUMBIA			HYDE PARK			ALL OTHERS			T O T A L		
Statistical Cases	Share of Total	% Change Previous Year	Statistical Cases	Share of Total	% Change Previous Year	Statistical Cases	Share of Total	% Change Previous Year	Statistical Cases	Share of Total	% Change Previous Year
53											
Jan.						31,484	4.1	— 1.4	760,253	100%	— 23.5
Feb.						30,624	3.9	+ 18.2	792,673	100%	+ 17.0
Mar.						37,223	4.1	+ 34.6	903,537	100%	+ 20.9
Apr.						42,559	4.4	+ 8.5	970,898	100%	— 3.8
May						36,257	3.3	— 10.4	1,109,238	100%	+ 2.9
June						54,531	3.9	+ 12.3	1,413,595	100%	+ 11.7
July						48,535	3.4	+ 12.2	1,435,638	100%	+ 8.0
Aug.						85,749	7.4	+ 126.3	1,158,929	100%	+ 1.2
Sept.						80,862	6.9	+ 196.1	1,175,590	100%	+ 15.7
Oct.						74,163	6.9	+ 109.7	1,067,860	100%	+ 8.4
Nov.						38,047	4.3	+ 64.4	884,948	100%	+ 3.9
Dec.						48,606	4.5	+ 38.8	1,071,492	100%	+ 5.1
TOTAL						608,640	4.8	+ 45.9	12,744,651	100%	+ 5.1
(592)											
1952											
Jan.						31,921	3.2	+ 28.7	994,277	100%	+ 22.9
Feb.						25,901	3.8	— 36.4	677,508	100%	— 14.8
Mar.						27,648	3.7	— 42.0	747,480	100%	— 18.6
April						39,219	3.9	+ 54.4	1,009,547	100%	+ 14.9
May						40,453	3.8	+ 3.7	1,078,248	100%	— 12.5
June						50,134	3.9	— 0.4	1,267,006	100%	+ 2.5
July						43,253	3.3	+ 13.0	1,329,627	100%	+ 8.7
Aug.						37,893	3.3	— 32.1	1,145,358	100%	— 11.7
Sept.						27,311	2.7	+ 1.9	1,016,254	100%	+ 6.1
Oct.						35,360	3.6	— 48.5	984,929	100%	— 7.6
Nov.						23,143	2.7	+ 29.4	851,823	100%	— 6.4
Dec.						35,009	3.4	+ 43.6	1,019,827	100%	+ 21.5
TOTAL						417,245	3.4	— 9.0	12,121,884	100%	— 0.3

Respondent's Exhibit 18

ST. LOUIS and ST. LOUIS COUNTY — PACKAGE BEER BY BREWERS

	ANHEUSER-BUSCH INC.			F A L S T A F F			GRIESEDIECK BROS.			GRIESEDIECK WESTERN			COLUMBIA			HYI
	Statistical Cases	Share of Total	% Change Previous Year	Statistical Cases	Share of Total	% Change Previous Year	Statistical Cases	Share of Total	% Change Previous Year	Statistical Cases	Share of Total	% Change Previous Year	Statistical Cases	Share of Total	% Change Previous Year	Statistical Cases
1951																
Jan.	63,140	7.8	+ 30.9	215,659	26.7	+ 3.6	143,381	17.7	— 0.7	362,008	44.7	— 5.4				
Feb.	61,059	7.7	+ 14.9	199,052	25.0	— 1.9	140,543	17.7	— 8.6	353,522	44.5	— 11.2				
Mar.	73,660	8.0	+ 27.3	228,003	24.8	— 3.3	157,588	17.2	— 3.4	411,609	44.8	— 6.5				
Apr.	75,654	8.6	+ 23.6	221,613	25.2	— 7.7	158,188	18.0	— 2.0	397,955	45.3	— 11.3				
May	99,399	8.1	+ 27.1	266,827	21.7	— 12.5	201,401	16.3	— 7.8	625,487	50.7	+ 6.4				
June	97,213	7.9	+ 11.4	268,401	21.7	— 19.2	192,418	15.6	— 19.4	627,447	50.8	+ 3.3				
July	95,846	7.8	+ 20.2	278,202	22.7	— 11.2	203,663	16.7	— 8.6	607,359	49.7	+ 6.8				
Aug.	107,910	8.3	+ 27.3	296,861	22.9	— 8.1	221,939	17.1	— 4.5	614,535	47.4	+ 8.0				
Sept.	84,850	8.9	+ 19.8	229,070	23.9	— 15.8	170,442	17.8	— 9.4	446,820	46.6	— 5.8				
Oct.	73,467	6.9	+ 0.3	253,312	23.8	— 9.3	179,338	16.8	— 8.8	491,220	46.1	— 1.9				
Nov.	73,151	8.0	+ 15.8	236,785	26.0	+ 6.4	166,531	18.3	+ 10.6	415,856	45.7	+ 7.3				
Dec.	75,518	9.0	+ 1.3	208,021	24.8	— 15.1	147,341	17.5	— 8.5	384,094	45.8	— 5.6				
TOTAL	980,867	8.1	+ 17.9	2,901,806	23.8	— 8.7	2,082,773	17.1	— 6.7	5,737,912	47.2	— 0.6				
1950																
Jan.	48,241	6.0	+ 4.0	208,136	25.8	— 19.3	144,386	17.9	+ 71.8	382,844	47.5	— 2.1				
Feb.	43,128	6.4	+ 10.2	202,848	24.4	— 20.7	153,840	18.5	+ 60.9	398,224	48.0	+ 4.7				
Mar.	57,880	6.3	— 7.3	235,848	25.5	— 20.8	163,215	17.6	+ 55.1	440,191	47.5	— 5.9				
Apr.	61,219	6.5	+ 3.1	240,023	25.4	— 19.2	161,433	17.1	+ 52.8	448,768	47.6	— 11.6				
May	78,201	6.4	+ 3.5	305,096	24.8	— 15.1	218,322	17.7	+ 46.5	588,130	47.8	— 1.4				
June	87,287	6.7	+ 6.4	332,308	25.4	— 10.9	238,867	18.3	+ 27.9	607,201	46.4	+ 2.3				
July	79,734	6.5	+ 6.3	313,312	25.6	— 9.1	222,890	18.3	+ 9.2	568,559	46.5	— 2.6				
Aug.	84,757	6.8	+ 8.7	322,886	26.0	— 6.7	232,401	18.8	— 2.4	568,970	45.9	— 7.5				
Sept.	70,829	6.8	+ 11.8	271,990	26.2	+ 0.1	188,172	18.2	+ 34.8	474,295	45.8	— 3.5				
Oct.	73,262	6.8	+ 38.8	279,305	25.8	+ 15.6	196,570	18.1	+ 13.4	500,609	46.3	+ 17.6				
Nov.	63,155	7.4	+ 12.4	222,443	25.9	— 11.4	150,613	17.5	— 14.1	387,588	45.2	— 12.1				
Dec.	74,533	8.1	+ 13.9	244,939	26.8	— 7.6	161,070	17.6	— 13.2	406,827	44.4	— 13.0				
TOTAL	832,226	6.7	+ 8.7	3,179,134	25.6	— 10.7	2,231,779	18.0	+ 21.1	5,772,206	46.6	— 3.2				

INTY — PACKAGE BEER BY BREWERS

ANHEUSER-BUSCH			COLUMBIA			HYDE PARK			ALL OTHERS			TOTAL		
Statistical Cases	% Change Previous Year		Statistical Cases	Share of Total	% Change Previous Year	Statistical Cases	Share of Total	% Change Previous Year	Statistical Cases	Share of Total	% Change Previous Year	Statistical Cases	Share of Total	% Change Previous Year
63,14	— 5.4								24,798	3.1	+ 8.0 *	808,986	100%	+ 0.3
61,05	— 11.2								40,712	5.1	+ 80.0	794,888	100%	— 4.3
73,66	— 6.5								47,663	5.2	+ 66.1	918,523	100%	— 0.8
75,65	— 11.3								25,406	2.9	— 11.6	878,816	100%	— 6.9
99,35	+ 6.4								39,015	3.2	— 3.6	1,232,129	100%	+ 0.2
97,21	+ 3.3								48,764	4.0	+ 17.4	1,234,243	100%	— 5.6
95,84	+ 6.8								38,270	3.1	+ 0.5	1,223,340	100%	+ 0.1
107,91	+ 8.0								55,847	4.3	+ 77.6	1,297,092	100%	+ 4.6
84,85	— 5.8								27,030	2.8	— 13.3	958,212	100%	— 7.6
73,46	— 1.9								68,597	6.4	+ 113.1	1,065,934	100%	— 1.5
73,15	+ 7.3								17,883	2.0	— 47.5	910,206	100%	+ 6.1
75,51	— 5.6								24,386	2.9	— 15.2	839,360	100%	— 8.4
TOTAL 980,86	— 0.6								458,371	3.8	+ 19.2	12,161,729	100%	— 1.9
48,24	— 2.1								22,970	2.8	+ 27.9	806,577	100%	+ 1.2
53,12	+ 4.7								22,621	2.7	+ 12.6	830,661	100%	+ 3.8
57,88	— 5.9								28,704	3.1	— 27.6	925,838	100%	— 4.8
61,21	— 11.6								32,404	3.4	— 5.6	943,847	100%	— 6.0
78,24	— 1.4								40,479	3.3	— 8.8	1,230,228	100%	+ 0.3
87,28	+ 2.3								41,537	3.2	— 9.8	1,307,200	100%	+ 2.0
79,73	— 2.6								38,084	3.1	— 20.6	1,222,579	100%	— 2.6
84,75	— 7.5								31,444	2.5	— 33.7	1,240,458	100%	— 6.4
70,82	— 3.5								31,186	3.0	— 11.3	1,036,472	100%	+ 3.5
73,26	+ 17.6								32,187	3.0	+ 47.5	1,081,933	100%	+ 18.2
63,15	— 12.1								34,055	4.0	+ 63.7	857,854	100%	— 9.2
74,55	— 13.0								28,766	3.1	+ 40.7	916,135	100%	— 8.8
TOTAL 832,22	— 3.2								384,437	3.1	— 2.9	12,399,782	100%	— 1.0

Respondent's Exhibit 18

(593)

ST. LOUIS and ST. LOUIS COUNTY — PACKAGE BEER BY BREWERS

	ANHEUSER-BUSCH INC.			F A L S T A F F			GRIESEDIECK BROS.			GRIESEDIECK WESTERN			COLUMBIA			HYDE PARK	
	Statistical Cases	Share of Total	% Change Previous Year	Statistical Cases	Share of Total	% Change Previous Year	Statistical Cases	Share of Total	% Change Previous Year	Statistical Cases	Share of Total	% Change Previous Year	Statistical Cases	Share of Total	% Change Previous Year	Statistical Cases	Share of Total
1949																	
Jan.	46,389	5.8%	+ 0.7	257,938	32.4%	+ 18.9	84,041	10.5%	— 20.7	390,975	49.0%	+ 55.9					
Feb.	48,190	6.0%	+ 10.2	255,853	32.0%	+ 23.0	95,594	12.0%	— 6.1	380,345	47.5%	+ 59.0					
Mar.	62,421	6.4%	+ 8.8	297,708	30.6%	+ 14.4	105,203	10.8%	— 14.7	467,563	48.1%	+ 47.2					
April	59,377	5.9%	+ 18.2	297,180	29.6%	+ 4.9	105,673	10.5%	— 23.1	507,754	50.6%	+ 38.9					
May	76,289	6.2%	+ 17.5	359,418	29.3%	+ 21.9	149,076	12.2%	+ 16.0	596,778	48.7%	+ 49.1					
June	82,059	6.4%	— 7.6	372,998	29.1%	+ 1.2	186,746	14.6%	+ 17.3	593,329	46.3%	+ 41.0					
July	74,993	6.0%	— 7.8	344,645	27.4%	— 14.3	204,037	16.3%	+ 28.2	583,762	46.5%	+ 33.2					
Aug.	77,963	5.9%	— 1.8	346,072	26.1%	— 18.6	238,231	18.0%	+ 31.6	615,016	46.4%	+ 37.5					
Sept.	63,368	6.3%	— 17.4	271,651	27.1%	— 30.3	139,583	14.0%	— 6.1	491,338	49.1%	+ 8.9					
Oct.	52,767	5.8%	— 8.1	241,585	26.4%	— 14.2	173,357	18.9%	+ 63.1	425,555	46.5%	+ 18.2					
Nov.	56,164	5.9%	— 2.3	250,964	26.6%	— 17.6	175,425	18.6%	+ 60.7	441,150	46.7%	— 5.0					
Dec.	65,426	6.5%	+ 3.7	265,034	26.4%	— 19.3	185,623	18.5%	+ 62.7	467,463	46.6%	— 3.3					
TOTAL	765,406	6.1%	— 3.0	3,561,046	28.4%	— 5.4	1,842,589	14.7%	+ 17.0	5,961,028	47.6%	+ 28.6					
1948																	
Jan.	46,073	5.7	+ 5.8	216,952	26.9	+ 31.4	105,966	13.2	— 31.8	250,850	31.2	+ 143.4	59,773	7.4	— 54.0	100,550	12.5
Feb.	43,748	5.6	+ 5.1	207,933	26.4	+ 30.1	101,781	12.9	— 24.5	239,260	30.4	+ 128.7	54,024	6.9	— 54.3	95,226	12.1
Mar.	57,386	5.8	+ 32.1	260,168	26.5	+ 49.9	123,324	12.6	— 6.1	317,600	32.4	+ 149.5	62,641	6.4	— 43.2	117,706	12.0
Apr.	72,557	6.6	+ 64.2	283,366	25.6	+ 30.0	137,372	12.4	— 18.4	365,450	33.1	+ 98.4	65,018	5.9	— 51.5	124,816	11.3
May	64,942	6.0	+ 38.1	294,764	27.0	+ 25.0	128,518	11.8	— 37.4	400,386	36.7	+ 96.3	49,181	4.5	— 70.0	118,366	10.8
June	88,856	6.9	+ 88.9	368,413	28.6	+ 51.8	159,223	12.3	— 16.9	420,653	32.6	+ 95.2	50,759	3.9	— 64.8	135,812	10.5
July	81,326	6.3	+ 74.5	402,266	31.2	+ 63.6	159,098	12.3	— 25.5	438,170	34.0	+ 92.4	28,565	2.2	— 83.9	127,238	9.9
Aug.	79,398	6.0	+ 45.5	424,910	32.1	+ 55.9	181,024	13.7	— 33.9	447,338	33.8	+ 88.7	—			124,389	9.4
Sept.	76,687	6.3	+ 63.7	389,556	32.0	+ 68.1	148,613	12.2	— 31.9	451,020	37.0	+ 105.7	—			100,916	8.3
Oct.	57,430	6.3	+ 23.2	281,449	31.2	+ 15.3	106,261	11.8	— 46.4	357,155	39.6	+ 45.4	—			69,775	7.7
Nov.	57,471	5.9	+ 19.8	304,605	31.4	+ 38.2	109,146	11.2	— 12.9	464,592	47.9	+ 121.5	—			—	
Dec.	63,096	6.1	+ 13.9	328,385	31.9	+ 25.7	114,056	11.1	— 24.2	483,538	46.9	+ 81.5	—			—	
TOTAL	788,970	6.2	+ 39.7	3,762,767	29.4	+ 40.9	1,574,382	12.3	— 27.3	4,636,012	36.2	+ 97.7	369,961	2.9		1,114,794	8.7

JNTY — PACKAGE BEER BY BREWERS

ANH WESTERN					COLUMBIA			HYDE PARK			ALL OTHERS			T O T A L		
Statistical Cases	% Change Previous Year	Statistical Cases	Share of Total	% Change Previous Year	Statistical Cases	Share of Total	% Change Previous Year	Statistical Cases	Share of Total	% Change Previous Year	Statistical Cases	Share of Total	% Change Previous Year			
46,387	+ 55.9							17,960	2.3%	— 29.5	797,303	100.0%	— 0.9			
48,190	+ 59.0							20,081	2.5%	— 55.2	800,063	100.0%	+ 1.7			
62,426	+ 47.2							39,650	4.1%	— 7.2	972,545	100.0%	— 0.9			
59,377	+ 38.9							34,321	3.4%	— 39.5	1,004,305	100.0%	— 9.1			
76,286	+ 49.1							44,406	3.6%	+ 26.8	1,225,967	100.0%	+ 12.4			
82,056	+ 41.0							46,049	3.6%	— 30.6	1,281,181	100.0%	— 0.7			
74,997	+ 33.2							47,948	3.8%	— 9.0	1,255,385	100.0%	— 2.4			
77,967	+ 37.5							47,438	3.6%	— 28.2	1,324,720	100.0%	+ 0.1			
63,368	+ 8.9							35,176	3.5%	— 31.9	1,001,116	100.0%	— 17.8			
52,766	+ 18.2							21,825	2.4%	— 29.3	915,089	100.0%	+ 1.3			
56,167	— 5.0							20,804	2.2%	— 40.0	944,507	100.0%	— 2.7			
65,426	— 3.3							20,451	2.0%	— 50.7	1,033,997	100.0%	— 2.6			
765,407	+ 28.6							396,109	3.2%	— 27.8	12,526,178	100.0%	— 2.1			
46,077	+ 143.4	59,773	7.4	— 54.0	100,550	12.5	— 27.1	25,479	3.1	— 42.4	805,643	100.0	+ 3.4			
43,744	+ 128.7	54,024	6.9	— 54.3	95,226	12.1	— 25.9	44,854	5.7	+ 9.9	786,826	100.0	+ 8.0			
57,388	+ 149.5	62,641	6.4	— 43.2	117,706	12.0	— 6.6	42,720	4.3	+ 47.8	999,545	100.0	+ 32.5			
72,555	+ 98.4	65,018	5.9	— 51.5	124,816	11.3	— 25.0	56,720	5.1	+ 32.4	1,105,299	100.0	+ 15.3			
64,944	+ 96.3	49,181	4.5	— 70.0	118,366	10.8	— 40.5	35,013	3.2	— 35.8	1,091,170	100.0	— 1.6			
88,855	+ 95.2	50,759	3.9	— 64.8	135,812	10.5	— 27.6	66,391	5.2	+ 4.9	1,290,107	100.0	+ 18.1			
81,321	+ 92.4	28,565	2.2	— 83.9	127,238	9.9	— 40.7	52,710	4.1	— 21.2	1,289,373	100.0	+ 8.0			
79,397	+ 88.7	—			124,389	9.4	— 52.1	66,050	5.0	— 6.0	1,323,109	100.0	— 4.2			
76,687	+ 105.7	—			100,916	8.3	— 50.3	51,638	4.2	— 30.3	1,218,430	100.0	+ 5.9			
57,437	+ 45.4	—			69,775	7.7	— 63.5	30,891	3.4	— 60.2	902,961	100.0	— 20.6			
57,477	+ 121.5	—			—			34,709	3.6	— 20.3	970,523	100.0	— 14.9			
63,097	+ 81.5	—			—			41,471	4.0	— 10.8	1,030,546	100.0	+ 2.4			
788,977	+ 97.7	369,961	2.9		1,114,794	8.7		548,646	4.3	— 16.1	12,795,532	100.0	+ 5.6			

Respondent's Exhibit 18

ST. LOUIS and ST. LOUIS COUNTY — PACKAGE BEER BY BREWERS

ANHEUSER-BUSCH INC.			F A L S T A F F			GRIESEDIECK BROS.			GRIESEDIECK WESTERN			COLUMBIA			HYDRA-PAC	
Statistical Cases	Share of Total	% Change Previous Year	Statistical Cases	Share of Total	% Change Previous Year	Statistical Cases	Share of Total	% Change Previous Year	Statistical Cases	Share of Total	% Change Previous Year	Statistical Cases	Share of Total	% Change Previous Year	Statistical Cases	Share of Total
43,537	5.6	+ 17.7	165,060	21.2	+ 8.9	155,475	19.9	+ 20.2	103,040	13.2	+ 28.2	129,988	16.7	+ 12.8	137,937	17.5
41,615	5.7	— 1.1	159,812	22.0	+ 10.9	134,816	18.5	+ 16.4	104,640	14.4	+ 30.9	118,192	16.2	— 5.2	128,562	16.6
43,457	5.9	+ 21.0	173,550	23.4	+ 107.2	131,384	17.7	+ 21.9	127,320	17.2	+ 58.6	110,245	14.9	+ 23.9	126,039	16.4
44,186	4.6	+ 16.5	217,984	22.7	+ 146.2	168,423	17.6	+ 34.4	184,160	19.2	+ 116.7	134,143	14.0	+ 60.3	166,474	16.8
47,026	4.2	— 9.2	235,833	21.3	+ 83.1	205,190	18.5	+ 43.7	204,013	18.4	+ 124.2	163,872	14.8	+ 98.2	198,782	17.2
47,037	4.3	+ 15.7	242,719	22.2	+ 111.9	191,663	17.6	+ 15.3	215,500	19.7	+ 111.3	144,213	13.2	+ 39.2	187,482	17.6
46,590	3.9	— 1.7	245,888	20.6	+ 78.8	213,635	17.9	+ 23.8	227,780	19.1	+ 106.7	176,930	14.9	+ 45.9	214,511	17.8
54,579	4.0	+ 64.1	272,614	19.7	+ 124.2	273,948	19.8	+ 50.0	237,120	17.2	+ 111.2	212,481	15.4	+ 68.1	259,677	18.2
46,860	4.1	+ 13.1	231,729	20.1	+ 74.2	218,090	19.0	+ 32.3	219,295	19.1	+ 119.7	157,359	13.7	+ 24.8	262,926	18.4
46,632	4.1	+ 3.0	244,001	21.5	+ 59.5	198,298	17.4	+ 16.5	245,590	21.6	+ 178.9	134,229	11.8	+ 3.0	191,194	18.6
47,982	5.7	+ 10.9	229,425	26.1	+ 35.3	125,381	14.8	— 20.9	209,745	24.8	+ 161.7	80,677	9.5	— 24.0	117,222	18.8
55,372	3.5	+ 24.6	261,328	26.0	+ 43.8	150,565	14.9	— 20.0	266,455	26.5	+ 167.7	87,782	8.7	— 45.7	138,897	19.0
564,882	4.7	+ 12.9	2,670,943	22.0	+ 66.8	2,166,868	17.9	+ 18.8	2,344,658	19.3	+ 111.5	1,650,111	13.6	+ 20.2	2,069,703	19.2
37,003	5.0	— 3.5	151,563	20.5	+ 105.9	129,320	17.5	+ 53.7	80,395	10.9	+ 38.8	115,247	15.6	+ 19.9	141,802	19.4
42,092	6.0	+ 16.2	144,137	20.7	+ 106.1	115,836	16.6	+ 29.7	79,935	11.5	+ 38.5	124,680	17.9	+ 36.4	106,993	19.6
35,929	5.8	— 14.3	83,762	13.7	— 7.0	107,801	17.6	— 7.9	80,275	13.1	+ 15.6	88,989	14.5	— 18.2	131,057	19.8
37,929	5.7	— 8.2	88,550	13.3	+ 2.5	125,325	18.8	+ 5.9	85,000	12.8	+ 5.9	83,663	12.6	— 19.9	134,514	20.0
51,774	6.9	+ 23.1	128,774	17.2	+ 26.9	142,769	19.0	— 0.5	90,980	12.2	— 5.6	82,667	11.0	— 29.0	139,061	20.2
40,643	5.2	— 14.3	114,550	14.6	+ 11.3	166,294	21.2	+ 16.8	101,750	13.0	— 4.4	103,575	13.2	— 15.2	149,110	20.4
47,411	5.3	+ 1.1	137,494	15.5	+ 14.0	172,602	19.4	+ 23.5	110,200	12.4	+ 1.6	122,921	13.8	— 3.6	167,772	20.6
33,264	3.8	— 28.9	121,589	13.9	— 6.0	182,674	20.9	+ 8.9	112,275	12.8	— 6.7	126,421	14.5	— 6.2	169,121	20.8
41,443	4.9	+ 7.3	133,031	15.6	+ 7.8	164,869	19.4	+ 10.1	99,830	11.7	— 5.1	126,053	14.9	— 6.5	148,905	21.0
45,267	5.2	+ 22.3	152,995	17.5	+ 15.4	170,195	19.5	+ 14.6	88,050	10.1	+ 6.0	130,338	14.9	+ 9.1	148,121	21.2
43,251	5.5	+ 16.2	162,883	20.7	+ 18.7	158,521	20.1	+ 28.9	80,150	10.2	+ 5.6	106,181	13.5	— 17.4	139,776	21.4
44,424	4.8	+ 12.2	181,690	19.5	+ 25.6	188,118	20.3	+ 36.0	99,550	10.7	+ 26.3	161,797	17.4	+ 13.6	181,360	21.6
500,430	5.3	+ 1.4	1,601,018	16.9	+ 22.0	1,824,324	19.3	+ 16.8	1,108,390	11.7	+ 6.6	1,372,532	14.5	— 3.8	1,757,592	21.8

KAGE BEER BY BREWERS

	COLUMBIA			HYDE PARK			ALL OTHERS			T O T A L		
	Statistical Cases	Share of Total	% Change Previous Year	Statistical Cases	Share of Total	% Change Previous Year	Statistical Cases	Share of Total	% Change Previous Year	Statistical Cases	Share of Total	% Change Previous Year
Jan.	129,988	16.7	+ 12.8	137,937	17.7	— 2.7	44,265	5.7	— 47.8	779,302	100.0	+ 5.3
Feb.	118,192	16.2	— 5.2	128,562	17.6	+ 20.2	40,829	5.6	— 51.6	728,466	100.0	+ 4.4
Mar.	110,245	14.9	+ 23.9	126,039	17.0	— 3.8	28,900	3.9	— 66.1	740,895	100.0	+ 20.8
Apr.	134,143	14.0	+ 60.3	166,474	17.4	+ 23.8	42,846	4.5	— 61.4	958,216	100.0	+ 43.9
May	163,872	14.8	+ 98.2	198,782	17.9	+ 42.9	54,531	4.9	— 52.2	1,109,247	100.0	+ 47.9
June	144,213	13.2	+ 39.2	187,482	17.2	+ 25.7	63,310	5.8	— 41.6	1,091,924	100.0	+ 39.2
July	176,930	14.9	+ 43.9	214,511	18.0	+ 27.9	66,865	5.6	— 49.4	1,192,208	100.0	+ 33.9
Aug.	212,481	15.4	+ 68.1	259,677	18.8	+ 53.5	70,253	5.1	— 45.9	1,380,672	100.0	+ 57.8
Sept.	157,359	13.7	+ 24.8	202,926	17.6	+ 36.3	74,130	6.4	— 45.6	1,150,389	100.0	+ 35.3
Oct.	134,229	11.8	+ 3.0	191,194	16.8	+ 29.1	77,688	6.8	— 44.3	1,137,632	100.0	+ 30.1
Nov.	80,677	9.5	— 24.0	117,222	13.9	— 16.1	43,552	5.2	— 55.4	844,984	100.0	+ 7.2
Dec.	87,782	8.7	— 45.7	138,897	13.8	— 23.4	46,470	4.6	— 35.5	1,006,869	100.0	+ 8.4
TOT.	1,650,111	13.6	+ 20.2	2,069,703	17.1	+ 17.8	653,639	5.4	— 49.5	12,120,804	100.0	+ 28.1

Jan.	115,247	15.6	+ 19.9	141,802	19.1	+ 72.7	84,735	11.4	— 12.3	740,065	100%	+ 39.9
Feb.	124,680	17.9	+ 36.4	106,993	15.3	+ 29.1	84,384	12.0	+ 20.7	698,057	100%	+ 40.3
Mar.	88,989	14.5	— 18.2	131,057	21.4	+ 23.2	85,349	13.9	— 14.9	613,162	100%	— 3.3
April	83,663	12.6	— 19.9	134,514	20.2	+ 14.7	110,865	16.6	+ 21.9	665,846	100%	+ 4.2
May	82,667	11.0	— 29.0	139,061	18.5	+ 11.2	114,109	15.2	+ 24.4	750,134	100%	+ 4.7
June	103,575	13.2	— 15.2	149,110	19.0	+ 2.0	108,382	13.8	+ 13.5	784,304	100%	+ 2.8
July	122,921	13.8	— 3.6	167,772	18.8	+ 17.2	132,030	14.8	+ 33.6	890,430	100%	+ 13.4
Aug.	126,421	14.5	— 6.2	169,121	19.3	— 2.2	129,779	14.8	+ 1.8	875,123	100%	— 2.7
Sept.	126,053	14.9	— 6.5	148,905	17.5	— 5.6	136,279	16.0	+ 34.9	850,410	100%	+ 4.9
Oct.	130,338	14.9	+ 9.1	148,121	16.9	— 5.8	139,583	15.9	+ 61.2	874,549	100%	+ 14.4
Nov.	106,181	13.5	— 17.4	139,776	17.7	+ 2.5	97,574	12.3	+ 17.3	788,336	100%	+ 9.3
Dec.	161,797	17.4	+ 13.6	181,360	19.5	+ 37.4	72,000	7.8	+ 11.9	928,939	100%	+ 25.5
TOT.	1,372,532	14.5	— 3.8	1,757,592	18.6	+ 12.7	1,295,069	13.7	+ 17.1	9,459,355	100%	+ 11.3

ST. LOUIS and ST. LOUIS COUNTY — PACKAGE BEER BY BREWERS

	ANHEUSER-BUSCH INC.			F A L S T A F F			GRIESEDIECK BROS.			GRIESEDIECK WESTERN			COLUMBIA			HYDE PARK	
	Statistical Cases	Share of Total	% Change Previous Year	Statistical Cases	Share of Total	% Change Previous Year	Statistical Cases	Share of Total	% Change Previous Year	Statistical Cases	Share of Total	% Change Previous Year	Statistical Cases	Share of Total	% Change Previous Year	Statistical Cases	Share of Total
1945																	
Jan.	38,351	7.3	+ 3.2	73,605	13.9	+ 0.2	84,139	15.9	— 5.2	57,940	11.0	+ 10.9	96,151	18.2	— 10.9	82,111	15.5
Feb.	36,238	7.3	— 4.7	69,919	14.0	— 4.2	89,337	18.0	— 8.2	57,700	11.6	+ 8.7	91,402	18.4	— 10.8	82,886	16.7
Mar.	41,918	6.6	— 1.5	90,053	14.2	+ 4.6	117,014	18.5	+ 9.0	69,415	11.0	+ 10.8	108,810	17.2	— 8.2	106,373	16.7
Apr.	41,335	6.5	+ 6.6	86,418	13.5	— 8.1	118,319	18.5	+ 12.9	80,267	12.6	+ 8.7	104,479	16.4	— 21.0	117,261	18.3
May	42,074	5.9	— 9.7	101,439	14.2	+ 0.2	143,452	20.0	+ 9.4	96,368	13.4	+ 7.1	116,447	16.2	— 16.7	125,053	17.5
June	47,410	6.2	— 3.8	102,883	13.5	— 2.4	142,388	18.7	+ 11.0	106,386	13.9	+ 14.9	122,147	16.0	— 17.7	146,225	19.2
July	46,894	6.0	— 1.9	120,591	15.4	+ 0.6	139,792	17.8	— 1.6	108,482	13.8	+ 16.9	127,567	16.2	— 9.2	143,162	18.2
Aug.	46,792	5.2	— 17.1	129,334	14.4	+ 7.5	167,694	18.6	+ 18.7	120,339	13.4	+ 37.5	134,836	15.0	— 4.1	172,849	19.2
Sept.	38,612	4.8	— 2.7	123,426	15.2	+ 34.4	149,783	18.5	+ 25.4	105,205	13.0	+ 54.5	134,785	16.6	+ 9.5	157,714	19.4
Oct.	37,005	4.8	— 9.8	132,556	17.4	+ 57.4	148,495	19.4	+ 36.2	83,080	10.9	+ 32.9	119,425	15.7	+ 2.3	157,204	20.5
Nov.	37,208	5.2	— 17.6	137,221	19.0	+ 61.8	123,008	17.1	+ 18.6	75,905	10.5	+ 39.8	128,593	17.8	+ 34.8	136,311	18.9
Dec.	39,582	5.3	— 10.8	144,655	19.5	+ 52.9	138,202	18.7	+ 31.6	78,795	10.6	+ 33.6	142,471	19.3	+ 23.3	132,029	17.9
TOTAL	493,419	5.8	— 6.4	1,312,100	15.4	+ 16.2	1,561,623	18.4	+ 13.3	1,939,882	12.2	+ 22.0	1,427,113	16.8	— 3.7	1,559,178	18.4
1944																	
Jan.	37,168	7.0	— 5.5	73,483	13.9	+ 6.7	88,734	16.7	+ 15.7	52,250	9.8	+ 56.4	107,969	20.3	+ 20.0	95,971	18.1
Feb.	38,018	7.1	— 8.6	72,980	13.7	+ 10.7	97,324	18.3	+ 12.7	53,095	10.0	+ 40.7	102,494	19.2	+ 6.5	92,659	17.4
Mar.	42,554	7.1	— 7.5	86,097	14.3	+ 4.8	107,386	17.9	— 1.9	62,655	10.4	— 15.7	118,549	19.7	+ 8.0	102,753	17.1
Apr.	38,790	6.1	— 12.3	94,038	14.8	+ 3.2	104,812	16.5	— 10.6	73,819	11.6	+ .6	132,306	20.9	+ 10.6	121,078	19.1
May	40,617	6.5	— 8.3	101,255	14.1	— 0.9	131,107	18.3	+ 8.3	89,955	12.6	+ .0	139,796	19.5	+ 8.4	132,803	18.5
June	49,307	6.5	— 11.8	105,445	13.9	— 2.1	128,223	16.8	— 10.0	92,555	12.2	— 1.0	148,361	19.5	+ 6.3	141,827	18.6
July	47,819	6.2	— 0.6	119,851	15.5	+ 2.1	142,053	18.4	+ 6.8	92,795	12.0	— .8	140,498	18.2	— 9.1	143,289	18.5
Aug.	56,457	7.1	+ 3.9	120,310	15.2	+ 2.5	141,297	17.9	+ 6.8	87,493	11.1	+ 26.8	141,609	17.9	+ 20.7	144,920	18.3
Sept.	39,670	5.9	+ 3.8	91,805	13.8	+ 4.1	119,398	17.9	+ 3.7	68,075	10.2	+ 16.5	123,110	18.4	+ 12.3	120,681	18.1
Oct.	41,021	6.5	— 0.7	84,202	13.3	+ 2.1	109,064	17.2	+ 15.1	62,530	9.9	+ 9.1	116,713	18.5	+ 12.3	118,846	18.8
Nov.	45,143	7.6	+ 2.9	84,808	14.3	+ 3.7	103,745	17.5	— 1.2	58,050	9.8	+ .4	95,395	16.0	— 8.5	104,392	17.5
Dec.	44,376	7.2	— 4.2	94,632	15.3	+ 5.6	104,985	17.0	— 1.1	58,995	9.5	— 2.4	115,583	18.7	+ 3.3	109,658	17.8
TOTAL	526,940	6.7	— 4.2	1,128,906	14.4	+ 3.1	1,378,128	17.6	+ 2.9	852,267	10.8	+ 10.0	1,482,383	18.9	+ 3.4	1,428,877	18.2

BEER BY BREWERS

ANHEUSER-BU:		COLUMBIA			HYDE PARK			ALL OTHERS			T O T A L		
Statistical Cases	Share of Total	Statistical Cases	Share of Total	% Change Previous Year	Statistical Cases	Share of Total	% Change Previous Year	Statistical Cases	Share of Total	% Change Previous Year	Statistical Cases	Share of Total	% Change Previous Year
38,351	7.3	96,151	18.2	— 10.9	82,111	15.5	— 14.4	96,570	18.2	+ 28.6	528,367	100%	— 0.3
36,238	7.3	91,402	18.4	— 10.8	82,886	16.7	— 10.5	69,890	14.0	— 8.3	497,372	100%	— 6.6
41,918	6.6	108,810	17.2	— 8.2	106,373	16.7	+ 3.5	100,336	15.8	+ 24.1	633,919	100%	+ 5.5
41,335	6.5	104,479	16.4	— 21.0	117,261	18.3	— 3.2	90,941	14.2	+ 29.6	639,020	100%	+ 0.6
42,074	5.9	116,447	16.2	— 16.7	125,053	17.5	— 5.8	91,697	12.8	+ 21.5	716,530	100%	— 0.1
47,410	6.2	122,147	16.0	— 17.7	146,225	19.2	+ 3.1	95,468	12.5	— 1.7	762,907	100%	—
46,894	6.0	127,567	16.2	— 9.2	143,162	18.2	— .1	98,823	12.6	+ 14.3	785,311	100%	+ 1.6
46,792	5.2	134,836	15.0	— 4.1	172,849	19.2	+ 19.3	127,458	14.2	+ 28.4	899,302	100%	+ 13.6
38,612	4.8	134,785	16.6	+ 9.5	157,714	19.4	+ 30.7	161,004	12.5	— 3.6	810,529	100%	+ 21.4
37,005	4.8	119,425	15.7	+ 2.3	157,204	20.5	+ 32.3	86,581	11.3	— 13.4	764,346	100%	+ 29.9
37,208	5.2	128,593	17.8	+ 34.8	136,311	18.9	+ 30.6	83,181	11.5	— 18.9	721,427	100%	+ 21.4
39,582	5.3	142,471	19.3	+ 23.3	132,029	17.9	+ 20.4	64,319	8.7	— 28.3	740,053	100%	+ 19.8
493,419	5	1,427,113	16.8	— 3.7	1,559,178	18.4	+ 9.1	1,106,268	13.0	+ 4.6	8,499,583	100%	+ 8.2
37,168	7.0	107,969	20.3	+ 20.0	95,971	18.1	+ 10.3	75,096	14.2	+ 130.7	530,671	100%	+ 24.0
38,018	7.1	102,494	19.2	+ 6.5	92,659	17.4	— 10.4	76,198	14.3	+ 162.2	532,768	100%	+ 15.7
42,554	7.1	118,549	19.7	+ 8.0	102,753	17.1	— 9.8	80,875	13.5	+ 22.4	600,869	100%	+ 6.3
38,790	6.1	132,306	20.9	+ 10.6	121,078	19.1	— 6.1	70,149	11.0	+ .2	634,992	100%	+ 3.0
46,617	6.5	139,796	19.5	+ 8.4	132,803	18.5	+ 30.0	75,458	10.5	— 13.0	716,991	100%	+ 10.2
49,307	6.5	148,361	19.5	+ 6.3	141,827	18.6	+ 18.4	97,104	12.7	— 12.0	762,822	100%	+ 3.6
47,819	6.2	140,498	18.2	— 9.1	143,289	18.5	+ 22.8	86,441	11.2	— 17.4	772,746	100%	+ 2.6
56,457	7.1	141,609	17.9	+ 20.7	144,920	18.3	+ 23.2	99,250	12.5	— 3.6	791,336	100%	+ 12.0
39,670	5.9	123,110	18.4	+ 12.3	120,681	18.1	+ 9.2	104,728	15.7	+ 34.5	667,467	100%	+ 8.9
41,021	6.5	116,713	18.5	+ 12.3	118,846	18.8	— 6.0	99,943	15.8	+ 49.1	632,319	100%	+ 5.7
45,143	7.6	95,395	16.0	— 8.5	104,392	17.5	— 9.6	102,612	17.3	+ 89.6	594,145	100%	+ 1.4
44,376	7.2	115,583	18.7	+ 3.3	109,658	17.8	— 10.3	89,727	14.5	+ 41.2	617,956	100%	— 1.9
526,940	6.7	1,482,383	18.9	+ 3.4	1,428,877	18.2	+ 4.8	1,057,581	13.4	+ 16.0	7,855,082	100%	+ 7.0

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	ANHEUSER-BUSCH INC.			F A L S T A F F			GRIESEDIECK BROS.			GRIESEDIECK WESTERN			COLUMBIA			H
	Statistical Cases	Share of Total	% Change Previous Year	Statistical Cases	Share of Total	% Change Previous Year	Statistical Cases	Share of Total	% Change Previous Year	Statistical Cases	Share of Total	% Change Previous Year	Statistical Cases	Share of Total	% Change Previous Year	Statistical Cases
43																
Jan.	39,350	9.2	— 61.1	68,869	16.1		76,663	17.9		33,405	7.8	— 33.2	90,002	21.1		86,986
Feb.	41,603	9.0	— 55.8	65,884	14.3		86,344	18.8		37,745	8.2	— 17.8	96,204	20.9		103,397
Mar.	46,004	8.1	— 58.5	82,175	14.5		109,440	19.4		52,840	9.3	— 8.0	109,758	19.4		113,857
April	44,248	7.2	— 57.6	91,121	14.8		117,251	19.0		73,400	11.9	+ 5.5	119,602	19.4		128,952
May	50,846	7.8	— 54.5	102,186	15.7		121,071	18.6		89,920	13.9	+ 17.7	128,915	19.8		102,182
June	55,928	7.6	+ 35.7	107,739	14.6		142,412	19.4		93,500	12.7	+ 68.8	139,554	19.0		119,747
July	48,123	6.4	+ 33.9	117,365	15.6		133,033	17.7		93,584	12.4	+ 40.8	151,231	20.0		116,640
Aug.	54,326	7.7	+ 26.6	117,341	16.6		132,352	18.7		68,995	9.8	+ 26.0	117,323	16.6		117,589
Sept.	38,220	6.2	— 10.5	88,150	14.4		115,144	18.8		58,437	9.6	+ 11.5	109,627	17.9		110,505
Oct.	41,295	6.9	— 3.5	82,462	13.8		94,743	15.8		57,325	9.6	+ 24.6	103,964	17.4		126,444
Nov.	43,876	7.5	— 14.9	81,804	14.0		104,952	17.9		57,795	9.9	+ 32.8	104,200	17.7		115,443
Dec.	46,331	7.4	+ 10.2	89,597	14.2		106,202	16.9		57,560	9.1	+ 27.7	111,911	17.8		122,213
TOTAL	550,150	7.5	— 33.0	1,094,693	14.9		1,339,607	18.3		774,506	10.5	+ 16.8	1,382,351	18.8		1,363,955
42																
Jan.	101,144		+ 130.7							49,985		+ 49.4				
Feb.	94,056		+ 96.7							45,905		+ 27.3				
Mar.	110,782		+ 86.5							57,410		+ 33.0				
Apr.	104,316		+ 37.2							69,545		+ 41.9				
May	111,682		+ 2.9							76,395		+ 29.6				
June	41,215		— 58.5							55,396		— 21.3				
July	35,927		— 66.5							66,450		— 7.3				
Aug.	42,918		— 64.0							54,745		— 24.1				
Sept.	42,715		— 58.9							52,420		— 14.4				
Oct.	42,793		— 56.5							46,009		— 15.4				
Nov.	51,587		— 46.9							43,535		— 12.2				
Dec.	42,059		— 65.2							45,070		— 21.4				
TOTAL	821,194		— 24.1							662,865		+ 2.1				

—PACKAGE BEER BY BREWERS

AN % age vious ar	COLUMBIA			HYDE PARK			ALL OTHERS			T O T A L		
	Statistical Cases	Share of Total	% Change Previous Year	Statistical Cases	Share of Total	% Change Previous Year	Statistical Cases	Share of Total	% Change Previous Year	Statistical Cases	Share of Total	% Change Previous Year
-33.2	90,002	21.1		86,986	20.3		32,558	7.6	— 45.7	427,833	100%	
-17.8	96,264	20.9		103,397	22.5		29,061	6.3	— 45.5	460,298	100%	
-8.0	109,758	19.4		113,857	20.2		51,226	9.1	— 11.0	565,300	100%	
-5.5	119,602	19.4		128,952	20.9		41,990	6.8	— 39.7	616,564	100%	
-17.7	128,915	19.8		102,182	15.7		55,367	8.5	— 30.5	650,487	100%	
-68.8	139,554	19.0		119,747	16.3		77,110	10.4	— 27.4	735,990	100%	
+40.8	151,231	20.0		116,640	15.5		93,300	12.4	— 36.8	753,276	100%	
+26.0	117,323	16.6		117,589	16.6		98,771	14.0	— 24.8	706,697	100%	
+11.5	109,627	17.9		110,505	18.0		92,581	15.1	— 9.8	612,664	100%	
+24.6	103,964	17.4		126,444	21.1		92,105	15.4	— 4.4	598,338	100%	
+32.8	104,200	17.7		115,443	19.7		78,108	13.3	+ 28.6	586,178	100%	
+27.7	111,911	17.8		122,213	19.4		96,064	15.2	+ 139.2	629,878	100%	
+16.8	1,382,351	18.8		1,363,955	18.6		838,241	11.4	— 16.6	7,343,503	100%	
							59,914		+ 1.9			
							53,298		+ 7.7			
							57,617		— 12.8			
							69,669		— .5			
							79,615		— 8.3			
							106,189		— 3.7			
							147,611		+ 41.0			
							131,370		+ 27.6			
							102,666		+ 31.9			
							96,373		+ 43.7			
							60,724		+ 12.2			
							40,153		— 36.8			
							1,005,199		+ 10.3			

Respondent's Exhibit 18

ST. LOUIS and ST. LOUIS COUNTY — PACKAGE BEER BY BREWERS

	ANHEUSER-BUSCH INC.			F A L S T A F F			GRIESEDIECK BROS.			GRIESEDIECK WESTERN			COLUMBIA			HY
	Statistical Cases	Share of Total	% Change Previous Year	Statistical Cases	Share of Total	% Change Previous Year	Statistical Cases	Share of Total	% Change Previous Year	Statistical Cases	Share of Total	% Change Previous Year	Statistical Cases	Share of Total	% Change Previous Year	
41																
Jan.	43,849	10.1	+ 39.0	30,903	7.1	+ 40.8	90,523	20.9	+ 12.0	33,450	7.7	+ 23.9	102,542	23.6	+ 45.1	73,551
Feb.	47,815	11.0	+ 34.8	33,734	7.8	+ 33.9	92,982	21.4	— 2.4	36,060	8.3	— 2.7	97,320	22.4	+ 21.1	77,656
Mar.	59,400	11.2	+ 33.8	41,449	7.8	+ 34.0	116,157	21.8	— 3.9	43,150	8.1	+ 9.5	112,900	21.2	+ 12.8	93,289
Apr.	76,015	12.7	+ 56.3	52,786	8.8	+ 42.9	125,199	21.0	— 4.6	49,011	8.2	+ 9.8	119,297	20.0	+ 6.9	104,907
May	108,574	14.0	+ 91.2	73,447	9.4	+ 68.6	155,339	20.0	+ 6.3	58,934	7.6	+ 19.5	151,145	19.4	+ 15.9	143,234
June	99,335	12.4	+ 3.2	79,213	9.9	+ 19.7	153,269	19.2	— 32.1	62,435	7.8	— 20.7	144,179	18.0	— 18.8	151,332
July	107,334	12.2	+ 135.6	98,934	11.3	+ 126.2	167,832	19.2	+ 50.5	71,693	8.2	+ 51.7	162,115	18.5	+ 20.1	163,093
Aug.	119,365	13.0	+ 107.1	110,586	12.0	+ 114.0	172,884	18.8	+ 22.5	72,162	7.9	+ 30.4	170,888	18.6	+ 6.0	169,472
Sept.	103,998	13.9	+ 106.4	96,654	12.9	+ 121.0	127,124	17.0	+ 1.6	61,255	8.2	+ 21.0	139,763	18.7	+ .5	141,373
Oct.	98,344	14.4	+ 83.5	87,107	12.7	+ 98.2	117,435	17.2	— 6.1	54,415	8.0	+ 7.1	129,693	19.0	— 8.3	129,616
Nov.	97,092	15.8	+ 103.7	77,815	12.6	+ 110.0	102,432	16.6	— 10.1	49,570	8.0	+ 20.6	118,668	19.4	— 3.0	115,795
Dec.	120,908	16.8	+ 126.6	91,648	12.7	+ 139.9	117,744	16.4	+ 2.2	57,332	8.0	+ 26.8	135,729	18.9	— 1.1	132,367
TOTAL	1,082,038	13.3	+ 74.2	874,276	10.7	+ 81.0	1,538,920	18.9	+ .5	649,467	8.0	+ 14.6	1,584,239	19.5	+ 4.7	1,495,337
96)																
40																
Jan.	31,543	8.4	— 15.4	21,954	5.9		80,839	21.6	— 26.3	27,005	7.2	— 32.1	70,685	18.9		74,594
Feb.	35,480	8.2	— 2.3	25,189	5.8		95,223	22.0	— 4.5	37,945	8.6	+ 1.3	80,362	18.6		88,203
Mar.	44,411	8.6	— 3.6	30,921	6.0		120,830	23.4	— 6.7	39,395	7.6	— 20.6	100,089	19.4		106,523
April	48,649	8.2	— 4.7	36,930	6.3		131,284	22.2	— 1.5	44,640	7.6	— 10.1	111,583	18.9		118,968
May	50,772	8.4	— 9.2	43,560	6.4		146,144	21.7	— 11.9	49,325	7.3	— 20.3	130,386	19.3		129,987
June	90,253	9.7	+ 51.7	66,187	6.7		225,692	22.7	+ 37.5	78,735	7.9	+ 17.9	177,643	17.9		187,183
July	45,561	7.3	— 28.2	43,745	7.0		111,487	17.8	— 35.6	47,275	7.6	— 30.7	134,971	21.6		121,196
Aug.	57,628	8.0	— .4	51,685	7.1		141,163	19.5	— 6.1	55,330	7.7	— 8.4	161,196	22.4		138,793
Sept.	50,395	8.3	— 16.2	43,727	7.2		125,129	20.6	— 22.1	50,642	8.4	— 20.2	139,026	22.9		115,953
Oct.	53,592	8.8	+ 8.7	43,942	7.2		125,040	20.6	+ 1.2	50,820	8.4	+ 3.5	141,369	23.3		112,261
Nov.	47,670	8.9	+ 7.4	37,054	6.9		113,895	21.2	— 2.4	41,090	7.7	— 4.3	129,019	24.1		96,004
Dec.	53,362	9.8	+ 11.6	38,210	7.0		115,174	21.0	— 10.2	45,215	8.3	+ 3.5	137,173	25.1		96,346
TOTAL	621,316	8.6	+ .3	483,104	6.7		1,531,900	21.2	— 7.4	566,517	7.8	— 10.4	1,513,502	20.9		1,386,014

— PACKAGE BEER BY BREWERS

PERCENTAGE Change from Previous Year	COLUMBIA			HYDE PARK			ALL OTHERS			T O T A L		
	Statistical Cases	Share of Total	% Change Previous Year	Statistical Cases	Share of Total	% Change Previous Year	Statistical Cases	Share of Total	% Change Previous Year	Statistical Cases	Share of Total	% Change Previous Year
+ 23.9	102,542	23.6	+ 45.1	73,553	24.7	— 1.4	58,798	13.6	— 13.3	433,618	100%	+ 15.8
+ 2.7	97,320	22.4	+ 21.1	77,656	17.8	— 12.0	49,562	11.3	— 30.0	435,069	100%	+ .7
+ 9.5	112,900	21.2	+ 12.8	93,289	17.5	— 12.4	66,051	12.4	— 11.4	532,405	100%	+ 3.0
+ 9.8	119,297	20.0	+ 6.9	104,907	17.6	— 11.8	69,992	11.7	— 28.5	597,207	100%	+ 1.2
+ 19.5	151,145	19.4	+ 15.9	143,234	18.4	+ 10.2	86,781	11.2	— 26.9	777,454	100%	+ 15.2
+ 20.7	144,179	18.0	— 18.8	151,332	18.9	— 19.2	110,283	13.8	— 32.1	800,046	100%	— 19.5
+ 51.7	162,115	18.5	+ 20.1	163,093	18.6	+ 34.6	104,694	12.0	— 13.1	875,695	100%	+ 40.2
+ 30.4	170,888	18.6	+ 6.0	169,472	18.4	+ 22.1	102,972	11.3	— 12.3	918,329	100%	+ 27.0
+ 21.0	139,763	18.7	+ .5	141,373	18.9	+ 21.9	77,860	10.4	— 4.5	748,027	100%	+ 23.3
+ 7.1	129,693	19.0	— 8.3	129,616	18.9	+ 15.5	67,045	9.8	— 17.2	683,655	100%	+ 12.4
+ 20.6	118,668	19.4	— 8.0	115,705	18.8	+ 20.5	54,129	8.8	— 24.1	615,411	100%	+ 14.8
+ 20.8	135,729	18.9	— 1.1	132,107	18.4	+ 37.1	63,563	8.8	+ 3.3	719,031	100%	+ 31.4
+ 14.6	1584,239	19.5	+ 4.7	1,495,337	18.4	+ 7.9	911,670	11.2	— 19.0	8,135,947	100%	+ 12.6
— 32.1	70,685	18.9		74,594	19.9	— 19.5	67,785	18.1		374,405	100%	
+ 1.3	80,362	18.6		88,203	20.4	+ 2.9	70,757	16.4		432,259	100%	
+ 20.6	100,089	19.4		106,523	20.6	— 3.5	74,536	14.4		516,705	100%	
+ 10.1	111,583	18.9		118,968	20.2	+ 3.6	97,825	16.6		589,879	100%	
+ 20.3	130,386	19.3		129,987	19.3	— 12.7	118,676	17.6		674,850	100%	
+ 17.9	177,643	17.9		187,183	18.8	+ 21.3	162,502	16.3		994,195	100%	
+ 30.7	134,971	21.6		121,196	19.4	— 26.8	120,457	19.3		624,692	100%	
+ 8.4	161,196	22.4		138,793	19.1	— 6.2	117,399	16.2		723,194	100%	
+ 20.2	139,026	22.9		115,953	19.1	— 27.3	81,561	13.5		606,433	100%	
+ 3.5	141,369	23.3		112,264	18.4	— 8.9	80,980	13.3		608,007	100%	
+ 4.3	129,019	24.1		96,004	17.9	— 10.7	71,351	13.3		536,083	100%	
+ 3.5	137,173	25.1		96,346	17.6	— 16.9	61,531	11.2		547,011	100%	
+ 10.4	1513,502	20.9		1,386,014	19.2	— 9.1	1,125,360	15.6		7,227,713	100%	

Respondent's Exhibit 18

ST. LOUIS and ST. LOUIS COUNTY — PACKAGE BEER BY BREWERS

ANHEUSER-BUSCH INC.			F A L S T A F F			GRIESEDIECK BROS.			GRIESEDIECK WESTERN			COLUMBIA			Statistical Cases
Statistical Cases	Share of Total	% Change Previous Year	Statistical Cases	Share of Total	% Change Previous Year	Statistical Cases	Share of Total	% Change Previous Year	Statistical Cases	Share of Total	% Change Previous Year	Statistical Cases	Share of Total	% Change Previous Year	
37,297		+ 31.3				109,698		+ .3	39,760		+ 22.5				92,693
36,313		+ 17.3				99,699		— 9.4	36,555		+ 4.4				85,733
46,092		+ 27.2				129,544		+ 5.0	49,620		+ 20.6				110,350
51,051		+ 21.3				133,313		— 8.0	49,680		+ 16.4				114,819
62,499		+ 39.9				165,864		+ 8.1	61,860		+ 35.4				148,901
63,448		+ 32.3				164,133		— 1.8	66,783		+ 27.7				154,274
63,454		+ 20.9				173,207		— 12.1	68,265		+ 19.1				165,611
57,882		+ 9.0				150,316		— 19.9	60,425		— 8.8				148,036
60,166		+ 25.4				160,526		+ 2.5	63,450		+ 13.2				159,390
49,302		+ 5.3				123,566		— 16.3	49,105		— 4.5				123,195
44,393		+ 9.5				116,661		— 5.0	42,955		— 6.9				107,471
47,822		+ 3.6				128,192		— 4.3	43,675		— 12.1				114,679
619,719		+ 19.8				1,654,719		— 5.7	632,133		+ 9.7				1,525,152
28,398	8.5		35,749	10.6		109,371	32.6		32,460	9.7		13,593	4.0		83,583
30,966	8.4		38,802	10.6		110,060	30.0		35,011	9.5		15,495	4.2		100,487
36,250	8.4		42,487	9.9		123,433	28.7		41,151	9.6		17,718	4.2		122,815
42,090	8.6		47,232	9.6		144,909	29.5		42,696	8.7		23,610	4.7		145,726
44,673	8.2		47,847	8.8		153,477	28.1		45,689	8.4		26,146	4.8		166,045
47,965	7.9		51,606	8.4		167,160	27.4		52,300	8.6		30,130	4.9		186,518
52,467	7.4		58,524	8.3		197,086	27.9		57,300	8.1		38,025	5.4		207,185
53,096	7.6		54,600	7.9		187,580	27.0		66,275	9.5		41,457	6.0		194,786
47,981	8.1		46,469	7.9		156,565	26.5		56,070	9.5		37,173	6.3		165,906
46,818	8.4		43,464	7.8		147,673	26.4		51,440	9.2		38,246	6.9		157,124
40,532	8.7		36,531	7.8		122,817	26.4		46,148	9.9		34,013	7.3		129,235
46,150	9.1		41,042	8.1		134,005	26.5		49,719	9.8		39,512	7.8		136,458
517,386	8.2		544,353	8.6		1,754,136	27.8		576,235	9.1		354,518	5.7		1,795,868

KAGE BEER BY BREWERS

ANHE				COLUMBIA			HYDE PARK			ALL OTHERS			T O T A L		
<i>Statistica Cases</i>	<i>Statistical Cases</i>	<i>Share of Total</i>	<i>% Change Previous Year</i>	<i>Statistical Cases</i>	<i>Share of Total</i>	<i>% Change Previous Year</i>	<i>Statistical Cases</i>	<i>Share of Total</i>	<i>% Change Previous Year</i>	<i>Statistical Cases</i>	<i>Share of Total</i>	<i>% Change Previous Year</i>	<i>Statistical Cases</i>	<i>Share of Total</i>	<i>% Change Previous Year</i>
37,297				92,693		+ 10.9									
36,313				85,733		— 14.7									
46,092				110,350		— 10.1									
51,051				114,819		— 21.2									
62,499				148,901		— 10.3									
63,448				154,274		— 17.3									
63,454				165,611		— 20.1									
57,882				148,036		— 24.0									
60,166				159,390		— 3.9									
49,302				123,195		— 21.6									
44,893				107,471		— 16.8									
47,822				114,679		— 16.0									
619,719				1,525,152		— 15.1									
28,398	13,593	4.0		83,583	24.8		32,623	9.8		335,777	100%				
30,966	15,495	4.2		100,487	27.4		36,205	9.9		367,026	100%				
36,250	17,718	4.2		122,815	28.1		45,603	10.6		429,457	100%				
42,090	23,010	4.7		145,726	29.6		46,085	9.3		491,742	100%				
44,673	26,146	4.8		166,045	30.4		61,838	11.3		545,706	100%				
47,965	30,130	4.9		186,518	30.5		75,171	12.3		610,850	100%				
52,467	38,025	5.4		207,185	29.3		96,286	13.6		706,873	100%				
53,096	41,457	6.0		194,786	28.0		97,368	14.0		695,162	100%				
47,981	37,173	6.3		165,906	28.1		80,203	13.6		590,367	100%				
46,818	38,246	6.9		157,124	28.1		73,889	13.2		558,654	100%				
40,532	34,013	7.3		129,235	27.7		56,934	12.2		466,210	100%				
46,150	39,512	7.8		136,458	27.9		59,875	11.8		506,752	100%				
517,386	354,518	5.7		1,795,868	28.5		762,080	12.1		6,304,576	100%				

Respondent's Exhibit 18

(597)

St. Louis & St. Louis County

STAG				HYDE PARK			
		Share of Market	% Change Previous Year		Share of Market	% Change Previous Year	
January 1954	271,563	35.4	- 11.2	1,630	.3	- 71.2	
February	290,324	34.7	- 10.5	1,505	.2	- 72.5	
March	336,166	35.4	- 9.4	1,895	.2	- 67.8	
April	350,607	32.8	- 9.5	1,586	.1	- 73.9	
May	345,346	32.2	- 21.6	1,846	.2	- 77.5	
June	412,638	29.1	- 28.1	1,532	.1	- 83.2	
July	306,086	21.2	- 46.7	1,040	.1	- 85.4	
August	280,106	21.9	- 31.7	643	.1	- 86.7	
September	259,430	21.2	- 39.9	716	.1	- 83.0	
October	235,680	22.4	- 36.3	478	.1	- 84.7	
November	224,322	22.9	- 29.2	175	.0	- 93.8	
December	239,631	21.7	- 37.2	66	.0	- 97.6	
TOTAL	3,551,899	26.9	- 27.3	13,112	.1	- 79.9	
January 1953	305,692	40.2	- 27.6	5,652	.8	- 84.3	
February	324,480	40.9	+ 14.2	5,473	.7	- 74.4	
March	370,992	41.1	+ 20.0	5,891	.6	- 72.0	
April	387,554	39.9	- 5.5	6,086	.6	- 77.1	
May	440,593	39.7	- 3.5	8,191	.8	- 71.8	
June	573,799	40.6	+ 6.0	9,138	.6	- 66.1	
July	574,212	40.0	+ 4.0	7,135	.5	- 71.9	
August	410,013	35.4	- 11.8	4,826	.4	- 74.1	
September	431,818	36.7	+ 2.5	4,200	.4	- 71.4	
October	370,180	34.7	- 6.2	3,118	.3	- 71.7	
November	316,646	35.8	- 8.8	2,806	.3	- 69.1	
December	381,855	35.6	- 6.2	2,706	.3	- 71.0	
TOTAL	4,887,834	38.1	- 2.4	65,222	.5	- 73.9	
January 1952	422,266	42.5	+ 21.6	37,134	3.7	+ 149.7	
February	284,014	41.9	- 16.3	21,376	3.2	+ 52.6	
March	309,093	41.4	- 22.1	21,061	2.8	+ 44.0	
April	410,274	40.6	+ 9.6	26,549	2.7	+ 12.8	
May	456,510	42.3	- 3.7	29,026	2.7	- 80.9	
June	541,069	42.7	+ 11.2	26,952	2.1	- 80.9	
July	552,311	41.6	+ 13.9	25,425	1.9	- 79.3	
August	464,730	40.6	- 8.3	18,633	1.6	- 82.7	
September	421,450	41.5	+ 11.4	14,689	1.4	- 78.5	
October	394,597	40.1	- 8.5	11,014	1.1	- 81.7	
November	347,205	40.8	- 5.9	9,083	1.0	- 80.7	
December	406,976	39.9	+ 16.7	9,320	.9	- 73.6	
TOTAL	5,010,495	41.3	+ 1.5	250,262	2.1	- 68.7	

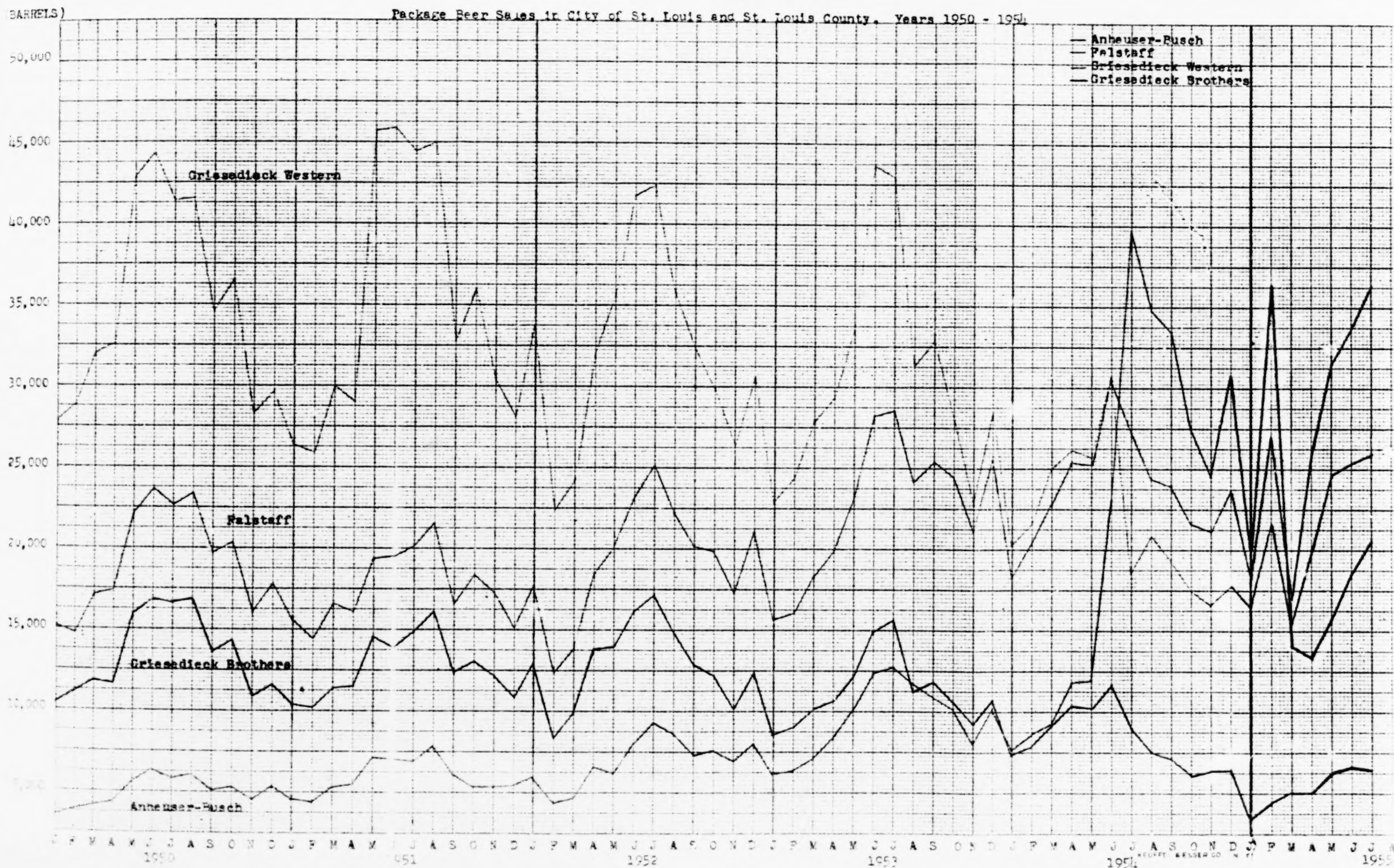
*Respondent's Exhibit 18***St. Louis & St. Louis County**

		STAG		HYDE PARK	
		Share of Market	% Change Previous Year	Share of Market	% Change Previous Year
(598)					
January 1951	347,138	42.9	— 2.1	14,870	1.8
February	339,518	42.7	— 8.5	14,004	1.8
March	396,987	43.2	— 3.2	14,622	1.6
April	374,429	42.6	— 10.7	23,526	2.7
May	473,804	38.5	— 14.1	151,683	12.3
June	486,651	39.4	— 14.7	140,796	11.4
July	484,772	39.7	— 9.4	122,587	10.0
August	506,951	39.1	— 5.6	107,584	8.3
September	378,354	39.5	— 16.2	68,466	7.1
October	431,160	40.4	— 9.6	60,060	5.7
November	368,785	40.5	— 0.7	47,071	5.2
December	348,764	41.6	— 10.4	35,330	4.2
TOTAL	4,937,313	40.6	— 9.2	800,599	6.6
January 1950	354,472	44.0	+ 5.0	28,372	3.5
February	371,058	44.7	+ 14.1	27,166	3.3
March	409,899	44.2	+ 1.2	30,292	3.3
April	419,407	44.5	— 6.2	29,361	3.1
May	551,729	44.8	+ 5.8	36,401	3.0
June	570,500	43.6	+ 9.9	36,701	2.8
July	534,855	43.7	+ 2.8	33,704	2.8
August	537,179	43.3	— 2.8	31,791	2.6
September	451,480	43.6	+ 1.1	22,815	2.2
October	476,776	44.1	+ 23.1	23,833	2.2
November	371,267	43.3	— 7.9	16,321	1.9
December	389,397	42.5	— 9.2	17,430	1.9
TOTAL	5,438,019	43.9	+ 2.7	334,187	2.7
January 1949	337,706	42.4		53,269	6.7
February	325,134	40.6		55,191	6.9
March	405,084	41.7		62,479	6.4
April	447,266	44.5		60,488	6.0
May	521,601	42.5		75,177	6.2
June	519,207	40.5		74,122	5.5
July	520,205	41.4		63,557	5.1
August	552,786	41.7		62,230	4.7
September	446,523	44.6		44,815	4.5
October	387,308	42.3		38,247	4.2
November	403,124	42.7	+ 2.8	38,026	4.0
December	428,851	42.7	+ 4.4	38,612	3.9
TOTAL	5,294,815	42.3		666,213	5.3

(599)

November 1948	391,973	40.4		72,619	7.5
December	410,765	39.9		72,773	7.0

Respondent's Exhibit 19



Respondent's Exhibit 22-A/B

611)

St. Louis and St. Louis County (Draught Beer Sales)
1953

	GRIESEDECK BROTHERS			GRIESEDECK WESTERN			INDUSTRY TOTAL
	<i>Barrels</i>	<i>Share of Tot.</i>	<i>% Chg. Pr. Yr.</i>	<i>Barrels</i>	<i>Share of Tot.</i>	<i>% Chg. Pr. Yr.</i>	<i>Barrels</i>
January	3,428	17.9%	— 27.5	4,046	21.1%	— 26.4	19,140
February	3,489	17.6%	— 13.1	4,092	20.6%	— 14.0	19,831
March	3,787	17.3%	— 8.4	4,636	21.2%	— 8.2	21,868
April	3,922	17.1%	— 23.8	4,612	20.2%	— 23.5	22,857
May	4,181	17.2%	— 19.5	4,868	20.0%	— 22.2	24,342
June	4,954	16.3%	— 8.7	6,028	19.8%	— 10.3	30,390
July	5,074	16.8%	— 10.1	6,254	20.7%	— 10.8	30,196
August	3,999	15.3%	— 25.1	4,983	19.0%	— 24.5	26,207
September	4,197	15.9%	— 13.1	5,206	20.1%	— 8.1	25,838
October	3,791	15.9%	— 17.5	4,465	18.8%	— 19.9	23,783
November	3,274	16.1%	— 13.8	3,945	19.5%	— 10.0	20,285
December	3,463	15.7%	— 18.9	4,150	18.9%	— 15.1	21,989
TOTAL	47,459	16.6%	— 16.7	57,285	20.0%	— 16.3	286,726

Respondent's Exhibit 22

12)

**St. Louis and St. Louis County (Draught Beer Sales)
1954**

	GRIESEBACH BROTHERS			GRIESEBACH WESTERN			Latter Top
	<i>Barrels</i>	<i>Share of Tot.</i>	<i>% Chg. Pr. Yr.</i>	<i>Barrels</i>	<i>Share of Tot.</i>	<i>% Chg. Pr. Yr.</i>	<i>Bar.</i>
January	2,719	15.8%	— 29.7	3,310	19.1%	— 18.2	112
February	2,865	15.5%	— 17.9	3,322	19.0%	— 13.9	181
March	3,115	15.0%	— 17.7	4,062	19.6%	— 12.4	207
April	3,305	14.8%	— 15.7	4,353	19.5%	— 5.6	225
May	3,059	14.3%	— 36.8	4,201	19.7%	— 13.7	211
June	3,384	13.2%	— 31.7	4,991	19.5%	— 17.2	257
July	3,295	12.3%	— 35.1	5,579	20.9%	— 10.8	267
August	2,938	12.7%	— 26.5	4,372	18.9%	— 12.3	211
September	2,736	12.3%	— 33.2	4,275	19.3%	— 17.9	222
October	2,367	12.1%	— 37.6	3,641	18.6%	— 18.5	193
November	2,154	12.0%	— 34.2	3,390	18.9%	— 15.1	179
December	2,166	11.7%	— 37.5	3,431	18.5%	— 17.3	185
TOTAL	34,103	13.4%	— 28.1	49,127	19.4%	— 14.2	2537

Respondent's Exhibit 24-A/B

(613)

[LETTERHEAD OF]

GRIESEDIECK BROS. BREWERY COMPANY

June 21st, 1954

To my G B Co-Workers:

I think you will be interested in the following statement that I issued to the newspapers today in connection with the Budweiser price cut.

It illustrates our conviction that our new G B is not afraid of competition on any grounds of price or quality—and that we are going to be bigger and better than ever in the future.

Here is what I told the newspapers—and what I am sure you agree with:

“We do not contemplate any price cut for G B beer.

“In fact, we are already giving our customers the best value in our 150 years of brewing. Just last March, we introduced an entirely new beer, using the costliest ingredients and the expensive natural carbonation process, that make G B compare favorably in quality, flavor and value with any beer in America—regardless of price. In order to give our customers greater value, we did not increase our price despite the increased cost of producing the new G B.

Respondent's Exhibit 24

"To protect the public and our own dealers, we deliberately cut production and sales of the old G B in the first quarter of this year, to reduce inventories in preparation for the introduction of the new G B. We publicly announced this policy of protecting our customers at a meeting of our Wholesalers on March 20th..

"Since the introduction of the new beer to the St. Louis market and the 10 midwestern states in which G B is distributed, sales have steadily improved and are currently well ahead of last year."

Cordially yours

Edw. J. Griesedieck

Edw. J. Griesedieck
President

ejg/fdb

Respondent's Exhibit 24

(614)

For your information here is a letter sent
to our own G. B. employees.

New G. B. is on the march *stronger*
than ever!

Edw. J. Griesedieck

Excerpts From Respondent's Exhibit 28
(615)

ANNUAL REPORT

TO STOCKHOLDERS

For the Year Ending

December Thirty-First, Nineteen Hundred and Fifty

FALSTAFF BREWING CORPORATION

(Incorporated in Delaware)

ST. LOUIS • OMAHA • NEW ORLEANS

• • •

(618)

March 10, 1951

TO THE STOCKHOLDERS:

• • •

During the year dividends of \$100,234 were paid to the holders of outstanding cumulative preferred stock, leaving available for surplus and dividends \$3,132,288 or \$1.74 per share to the holders of common stock.

As indicated in previous information to the stockholders, plans for the expansion of the New Orleans plant and additional storage capacity in Omaha are well under way and it is hoped that this construction will be completed by the

Excerpts From Respondent's Exhibit 28

end of 1951, or shortly thereafter. It has already been determined that upon the completion of this program substantial economies will be effected in production and delivery costs to our southern and southwestern markets. The cost of this building program is estimated to be about five million dollars of which approximately \$990,000 has already been paid, as of December 31, 1950.

(619)

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• • •

In conclusion I wish to state that with the continuance of your Company's strong and forceful merchandizing program, Falstaff, "The Choicest Product of the Brewers' Art," will continue to be a dominating factor in the majority of our marketing areas.

Respectfully submitted,

ALVIN GRIESEDIECK

President

Excerpts From Respondent's Exhibit 29

(629)

A N N U A L R E P O R T

TO STOCKHOLDERS

For the Year Ending

December Thirty-First, Nineteen Hundred and Fifty-One

FALSTAFF BREWING CORPORATION

(Incorporated in Delaware)

ST. LOUIS • OMAHA • NEW ORLEANS

• • •

(633)

TO THE STOCKHOLDERS AND EMPLOYEES:

March 8, 1952

• • •

During the first quarter of 1952, we should see the completion of our seven-year program of plant expansion and redispotion of productive facilities which will give the company a record productive capacity of nearly 3,000,000 barrels a year and should result in an estimated savings of more than one million dollars annually through more efficient operation and lower distribution costs. This long-range program has embraced the expansion of three plants,

Excerpts From Respondent's Exhibit 29

one each in St. Louis, New Orleans, and Omaha, with total cost of the program in excess of \$8,500,000.

Under this plan, plant number two at St. Louis is being discontinued in the interest of economy and will be used as a warehouse. The net result of this program will be a total productive capacity of nearly double that of 1945.

During the year just passed, and again in line with our building for the future, we expanded considerably our advertising and merchandising (634) program in our entire sales area.

• • •

As to outlook, indications point to a continuing increase in Falstaff sales. While sales in the first half of 1951 were less than in the corresponding period of 1950, our total 1951 sales were ahead of those in 1950 and current demand indicates a continuing sales increase in 1952 over the year just ended. New markets are now under survey and analysis for possible development during the ensuing year.

• • •

Respectfully submitted,

ALVIN GRIESEDIECK
President

Excerpts From Respondent's Exhibit 29

(635)

THE YEAR IN REVIEW

Net sales of \$39,382,130 for Falstaff in 1951 were the highest in the company's history.

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(637)

• • •

Premium Quality Falstaff Beer is now being sold in all or parts of twenty states. Extent of our sales area is shown in the map on this page. The hundreds of Falstaff distributors fan out over this area as front line troops in building good will, promoting, selling and delivering our product. They are backed by our own broad program of advertising in newspapers and magazines, on billboards, over radio and television and through point-of-sale displays reaching the beer drinker in taverns, groceries and package stores.

It must be kept in mind that our product sales are built on promotion and advertising and constant reminder to the public of product quality and service we have to offer. Selling, delivery and advertising costs are directly related to territory expansion and to the ever-increasing effort to extend and reach out for more sales.

To give one example of Falstaff's aggressive advertising program, the company in 1951 developed a major advertising project through its baseball network comprised

Excerpts From Respondent's Exhibit 29

of some 140 radio stations throughout its 20-state area. Through this network the Game-of-the-Day was delivered to the public in most of this area, and games played by the St. Louis Browns reached fans in that particular area. It has been found that this type of program appeals to the beer drinker, and has great weight because of its massive use of radio time, two and one-half hours a day, seven days a week during the baseball period.

(638)

• • •

Final phases of Falstaff's seven-year program of plant expansion and redistribution of productive facilities in its three plant cities are the company's outstanding marks of progress in the year 1951. Completion of this program is expected during the spring of 1952.

Through this long-range program, Falstaff is attaining a productive capacity of 2,890,000 barrels per year, nearly double that which existed when the expansion was begun in 1945. Total cost of the expansion is in excess of \$8,500,000.

Work was completed last year at the company's plant number five in St. Louis, where annual capacity was increased from 500,000 to 650,000 barrels. It included construction of a new yeast room and power plant, expansion of the bottleshop, and installation of new storage and fermenting tanks and a new wort cooling tower. The program now is virtually completed at Falstaff's Omaha plant, with a new bottleshop, stockhouse, boiler and cooling tower, and installation of new brewing and power plant equip-

Excerpts From Respondent's Exhibit 29

ment. Annual capacity there--Nebraska's largest brewery--is 665,000 barrels.

Falstaff's New Orleans plant will have annual capacity of 1,100,000 barrels, or an increase of 350,000 barrels, with the now nearly completed expansion there. It is Louisiana's largest brewery. (639) The New Orleans program has included an addition to the bottling plant, doubling its capacity; addition of a unit to the brewhouse, increasing its capacity by 33 per cent; erection of an additional stockhouse and new warehouse, and installation of a new wort cooling tower and two new boilers.

Expansion of the New Orleans plant was required to serve Falstaff's rapidly growing southern market with greater efficiency and lower distribution costs. Previously, the demand in Texas, Louisiana, Mississippi and other southwestern and southeastern territory has been met in great part by shipments from St. Louis and Omaha, with the company having to absorb the freight differential of hundreds of thousands of dollars annually. The bulk of this production, plus that required for an additional potential demand, will now be supplied by the enlarged New Orleans plant, permitting the closing of one of our three St. Louis plants, number two, and its conversion to warehouse use. Plant number one, with its annual capacity of 475,000 barrels, and the previously mentioned plant number five will continue to supply the many distributors in the area contiguous to St. Louis.

Excerpts From Respondent's Exhibit 30

(647)

ANNUAL REPORT

TO STOCKHOLDERS

For the Year Ending

December Thirty-First, Nineteen Hundred and Fifty-Two

1952

FALSTAFF BREWING CORPORATION

(Incorporated in Delaware)

ST. LOUIS, MO. • OMAHA, NEBR. • NEW ORLEANS, LA.

SAN JOSE, CALIF.

• • •

(651)

To the Stockholders and Employees:

The year 1952 for Falstaff was highlighted by an all-time record high in net sales and by continued plant and market expansion pointing the way to even greater records in years to come.

Net sales reached the peak of \$43,509,772, an increase of \$4,127,642 or 10 per cent above the former high of \$39,382,130 the year before.

• • •

Excerpts From Respondent's Exhibit 30

After provision for income taxes, net earnings amounted to \$3,285,173, an increase of 33 per cent over the \$2,457,119 of the preceding year.

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(652)

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These figures combine to reflect Falstaff's march of progress during 1952. Consistent with the policy of building for the future, 1952 marked completion of a major phase of expansion upon dedication last May of the South's largest brewery at New Orleans and the acquisition of a new West Coast plant in San Jose, California.

Falstaff's entry into the West Coast market opens a new chapter in the company's history of growth, and is another step in our long-range expansion program. The decision to take our product into California followed long and careful studies, both of market potentialities and of plant properties that would require a minimum of transformation to our modern equipment and production standards.

On December 15 your management consummated the purchase of Wieland's brewery from the Pacific Brewing & Malting Company. This plant, which had been completely modernized in 1949, thus became Falstaff Brewing Corporation's Plant Number Six.

Acquisition of this California plant was accomplished principally through a transfer of stock. The seller received 121,760 shares of common stock, newly issued, plus 39,560 shares of preferred purchased by your company

Excerpts From Respondent's Exhibit 30

on the open market at not over par value of \$16.50 per share. The new issue raised the outstanding to 1,922,516 within our total authorized of 2,000,000 shares.

Premium Quality Falstaff will be introduced to our new Northern California market about the time this report reaches its readers early in March.

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(655)

• • •

The advertising phase of our marketing program has continued strong in the field of radio and television, in addition to the many other media. This hard-hitting punch of Falstaff over the air waves is continuing on into 1953.

It may be in order, at this time, to point out that the newly acquired plant at San Jose, California, cannot be expected to contribute substantially to our earnings during the ensuing year as it will take some time and considerable expense to create consumer demand for our product in this area. Your management is confident, however, that within a reasonable time Premium Quality Falstaff will take its place among the leading beers on the West Coast as it has in other markets.

In summary, the year 1952 has brought us through a period of tremendous growth and has given us unlimited momentum for progress on into the future.

Respectfully submitted,

ALVIN GRIESEDECK

President

March 7, 1953

Excerpts From Respondent's Exhibit 31

(666)

A N N U A L R E P O R T

TO STOCKHOLDERS

For the Year Ending

December Thirty-First, Nineteen Hundred and Fifty-Three

1 9 5 3

FALSTAFF BREWING CORPORATION

(Incorporated in Delaware)

ST. LOUIS, MO. • OMAHA, NEBR. • NEW ORLEANS, LA.

SAN JOSE, CALIF.

• • •

A N N U A L L E T T E R

FROM THE CHAIRMAN OF THE BOARD AND THE PRESIDENT

(671)

Falstaff's operations during 1953 resulted in the highest sales record in the company's history. Gross sales of \$85,237,723 compared with the previous high of \$64,032,902 in 1952.

Excerpts From Respondent's Exhibit 31

With \$26,253,093 in excise taxes deducted from gross sales, the 1953 figure for net sales stood at the all-time peak of \$58,984,630. Net sales, therefore, were up \$15,474,858 from the previous record of \$43,509,772 for 1952.

. . .

There has been no let-up in Falstaff's planned pattern for growth. Significant last year was the introduction of Premium Quality Falstaff in the California market. California sales rose from ninth place in March, when the product was first introduced, through succeeding positions to capture the fifth place for six months in 1953. This ten-month operation contributed sales of 326,315 barrels to the over-all company (672) total of 2,911,393 barrels and represented the maximum capacity of the plant. An expansion program begun in 1953 and scheduled for completion about May of this year should increase this plant capacity to about 450,000 barrels. Even this capacity will limit Falstaff sales to the northern half of the state.

During most of 1953, Falstaff beer was in short supply in practically all markets. Sales estimates for 1954 indicate that production will again be short of that required to adequately supply our needs in existing markets. Primarily with this problem in mind, your Management has been negotiating with representative of the Berghoff Brewing Corporation of Fort Wayne, Indiana. At this writing, these negotiations are nearing completion for the acquisition of the Berghoff brewing facilities under a ten-year lease agreement with an option to purchase at any time after the first six months. In addition to relieving

Excerpts From Respondent's Exhibit 31

the present production shortage, this brewery—with a production capacity of about 400,000 barrels—will enable Falstaff to open a few new markets in the Fort Wayne area—again building for the future.

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(677)

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Despite the fact that our industry has become more highly competitive year by year, Falstaff has continued to grow. Long-range planning has firmly entrenched Falstaff for the even keener competition ahead. At the same time Management would be unrealistic if it did not recognize the increasing problem of mounting costs. This is a problem common to all members of the brewing industry. An increase in price would be one answer, but this will be controlled to a great extent by competition within the industry.

• • •

FOR THE BOARD OF DIRECTORS:

ALVIN GRIESEDIECK

Chairman of the Board

JOSEPH GRIESEDIECK

President

(678)

From One Small Plant 20 Years Ago . . .

1917 Predecessor company of Falstaff Brewing Corporation was formed by the late "Papa Joe" Griesedieck, one of the nation's first graduate brewmasters and in whose family brewing had been a tradition since the 18th century.

Excerpts From Respondent's Exhibit 31

- 1920 Here began the more than a decade of Prohibition with this young company struggling, but surviving, with substitute products while many others closed their doors. Even during this period, faith in a future that would restore the legality of beer led to the acquisition of the already famous Falstaff name and trademark that were eventually to identify this business venture.
- 1933 The federal government's first permit to brew and sell beer after the repeal of Prohibition was issued to Falstaff. When beer went on sale, orders outstripped production and Plant No. 2 was leased and later purchased.
- 1935 Continually growing markets and sales areas necessitated further expansion and after painstaking research Plant No. 3 was acquired in Omaha. Modernized and expanded several times it is now the largest brewery in Nebraska.
- 1937 Falstaff's acquisition of Plant No. 4 in New Orleans made possible the company's rapid sales strides in the South and Southwest. Today the largest brewery in the South, Plant No. 4 annual production topped one million barrels in 1953.
- 1944 While working under wartime production restrictions, Falstaff management blueprinted a far-sighted \$8,500,000 expansion and modernization plan to more than double the company's production. Its fulfillment kept Falstaff abreast of the industry in the crucial post-war years.

Excerpts From Respondent's Exhibit 31

1948 As a part of the post-war expansion program, Falstaff acquired Plant No. 5 in St. Louis, modernized and expanded its facilities to augment production from the then two other St. Louis plants.

1952 With the purchase of Plant No. 6 in San Jose, Cal., Falstaff forged another link in its growing chain of breweries and paved the way for coast-to-coast distribution of Premium Quality Falstaff.

1953 With wider distribution and higher production than ever before in Falstaff history, the company achieved the highest sales record since its founding. Additional expansion possibilities were explored and plans were laid for production to reach "3,000,000 and more in '54."

**...to Five Modern Plants and among the Nation's
Six Largest in 1953!**

Excerpts From Respondent's Exhibit 32

(686)

1 9 5 4

A N N U A L R E P O R T

• • •

(689)

FALSTAFF BREWING CORPORATION

A N N U A L L E T T E R

TO THE STOCKHOLDERS:

During the year just ended Falstaff's sales reached an all-time-high of 3,289,906 barrels, exceeding by 13 per cent barrelage sales of 1953. The year was also characterized by expansion of sales territories and the acquisition of a plant in Fort Wayne, Indiana, your company's sixth production unit.

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(690)

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Intense competition continues in the brewing industry and this situation has been sharpened by some brewing firms which have increased capacity without proportionate increases in sales, and by a general industry-wide increase

Excerpts From Respondent's Exhibit 32

in capacity without an industry-wide increase in sales. Recognizing this trend, your management early in 1954 put into effect the most extensive advertising and sales campaign in Falstaff's history in order to keep the company in a competitive situation in established areas and to expand sales into new markets.

• • •

It is the management's firm belief, however, that these expenditures have strengthened Falstaff's position in the industry as we continue to build for the future. In certain of our marketing areas, where the competitive situation has permitted, some price increases have recently been made which should help offset these constantly rising costs. It is highly doubtful, however, that any general price increase will be possible in 1955.

• • •

With vast areas of population yet untouched, with oncoming increases in adult population, with a lead on the industry in our decentralized operation and with production and sales at all-time peak efficiency, your company's outlook is regarded by management as favorable.

FOR THE BOARD OF DIRECTORS:

ALVIN GRIESEDIECK
Chairman of the Board

JOSEPH GRIESEDIECK
President

Excerpts From Respondent's Exhibit 32

(691)

1954 IN REVIEW

The record-breaking sale of a total of 3,289,906 barrels of Premium Quality Falstaff during the calendar year of 1954 resulted in gross sales of \$97,466,570 as compared with the previous high of \$85,237,723 in 1953.

After deduction of \$29,645,885 for excise taxes, net sales were \$67,820,685 or 15 per cent higher than the previous peak which was reached last year.

(693)

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On April 12, 1954, Falstaff officially became a corporate citizen of Fort Wayne, Indiana, with the signing of a 10-year lease with option to buy the plant facilities of the Berghoff Brewing Corporation. Terms of the Berghoff lease provide for payments of \$150,000 annually.

At the time of acquisition, the plant was in fairly good condition but extensive modernization and rehabilitation were necessary to match the unit with the high standards of equipment and operation in Falstaff's five other plants.

Brewing facilities were the first to be renovated and placed in operating condition so the brewing and aging of Premium Quality Falstaff could begin with a minimum of delay.

. . .

Excerpts From Respondent's Exhibit 32

Of the 3,289,906 barrels sold by Falstaff in 1954, 245,259 barrels came from the Fort Wayne plant which started releasing beer in the early summer. Beer from this plant went partly into new market areas, but the bulk of shipments went into established Falstaff sales areas.

In addition to the Fort Wayne rehabilitation, Falstaff further modernized and added (694) to the efficiency of plants in St. Louis, Omaha, New Orleans and San Jose in an all-out effort to keep capacity ahead of the ever-increasing demand.

• • •

In August, Falstaff announced the formation of the new Mountain Division with headquarters in Denver. Taking in parts of both the Southwestern and Midwestern Divisions, the new division covers Wyoming, Colorado, Arizona, New Mexico and the El Paso, Texas, market. The reorganization was made to effect a more direct contact with existing markets in the mountain states and to allow a more concentrated sales and advertising effort within a smaller area.

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(695)

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O U T L O O K

A review of 1954 brings into focus a number of factors which have important bearing on the future of the company. While these factors are not in themselves full proof of what the future holds, and although they do not stand alone in determining the company's (696) outlook, they neverthe-

Excerpts From Respondent's Exhibit 32

less are, under present circumstances, keys to understanding the company's potentialities.

Multiple-plant Operation—Because Falstaff pioneered multi-plant operation in the brewing industry 22 years ago, it has a distinct advantage over breweries which have just recently branched out from single units and are now encountering unexpected difficulties. Falstaff is also at an advantage because there is no single unit possessing large, unused capacity. The decentralized operation enables the company to employ the shortest possible transportation distances in the distribution of its product.

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(697)

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Market Potential'—Latest unofficial figures, published prior to the writing of this report, indicate Falstaff moved from sixth to fifth position in the industry in 1954. This was accomplished even though the company's sales area includes only 36 per cent of the population. Already a top volume producer, the company still has tremendous potential in the 64 per cent who do not yet have Premium Quality Falstaff available to them. The company's demonstrated ability to enter new markets and within a short time attain a strong foothold is well known in the industry. In addition, sales have continued to increase in established markets, with many distributors showing exceptional gains during the year just past.

• • •

While sales of most of the major breweries remained static or declined in 1954, Falstaff continued to grow. Only the dynamic breweries will be able to capitalize on the future potential.

Excerpts From Respondent's Exhibit 33

(706)

[LETTERHEAD OF]

FALSTAFF BREWING CORPORATION

QUARTERLY REPORT TO THE STOCKHOLDERS

ENDING MARCH 31, 1954

Dear Stockholder:

. . .

The first quarter continued to reflect Falstaff's upward trend in sales, with net sales of \$13,440,272 after deducting the charge for excise taxes, as compared to \$9,984,046 in the corresponding quarter of last year. Barrelage increased from 512,815 barrels last year to 658,589 barrels for the first quarter this year.

. . .

The first quarter of this year produced unaudited earnings of \$1,119,333 before income taxes, as compared to \$763,735 for the same quarter a year ago. Net income after provision for income taxes advanced to \$559,633 against the \$366,535 a year ago. Net earnings for this quarter figure at 28 cents per share of common stock, compared with 17 cents in the first quarter of 1953.

. . .

Of significance in Falstaff's continued growth since the last official report to stockholders, the previously announced

Excerpts From Respondent's Exhibit 33

proposal for taking over facilities of the Berghoff Brewing Corporation at Fort Wayne, Indiana, has been carried out. On April 12, that plant with a rated capacity of 400,000 barrels was acquired on the basis of a 10-year lease with option to purchase.

• • •

This sixth plant in our operation is generally well equipped with necessary rehabilitation confined mainly to the bottling operation. This rehabilitation already is in progress, the principle item being the installation of a modern, high speed can filling line. Brewing and aging of Premium Quality Falstaff have also begun. Since a Premium Quality beer requires an extensive aging period, Falstaff will not be ready to be shipped out of the Fort Wayne plant until sometime in June. Primarily, production from this unit will serve to relieve our supply shortage in present territories, but at the same time some new markets in Indiana, Michigan and Ohio are being developed this year.

• • •

Sincerely,

JOSEPH GRIESEDIECK
President.

Excerpts From Respondent's Exhibit 34

(710)

[LETTERHEAD OF]

FALSTAFF BREWING CORPORATION

QUARTERLY REPORT TO THE STOCKHOLDERS

ENDING JUNE 30, 1954

Dear Stockholder:

• • •

Net sales of \$18,987,763 for the three month period ending June 30, 1954 were the highest for any quarter in the history of the company, and represent an increase of 16 per cent over the \$16,381,445 for the corresponding quarter a year ago.

Unaudited earnings for the second quarter of 1954, before provision for income taxes, were \$2,148,736, compared to \$1,874,256 for the same quarter a year ago. Net income after provision for income taxes amounted to \$1,074,336, compared to \$899,656 for the second quarter of last year.

• • •

Barrelage for the first six months increased from 1,318,955 last year to 1,571,377 barrels this year. Falstaff recorded the largest sales month in its history in June of this year when it shipped a total of 346,386 barrels.

As reported to you in my last letter, brewing and aging of Premium Quality Falstaff at Plant No. 7 in Ft. Wayne

Excerpts From Respondent's Exhibit 34

was started early this spring and shipments out of this plant began in the first part of June. While this new acquisition added to over-all company sales in June, the higher costs connected with the first month of operation, together with the initial expenses incurred in launching an extensive sales and advertising program in the new markets, had some effect on earnings for this period.

• • •

The sales outlook for Falstaff for the balance of the year is a very favorable one, and in spite of additional non-recurring charges against income occasioned by the heavy rehabilitation program and initial marketing expenses in the Fort Wayne operation, your management feels that earnings for the last six months should also continue to be favorable.

Sincerely,

JOSEPH GRIESEDIECK
President

Excerpts From Respondent's Exhibit 35

(714)

[LETTERHEAD OF]

FALSTAFF BREWING CORPORATION

QUARTERLY REPORT TO THE STOCKHOLDERS

ENDING SEPTEMBER 30, 1954

Dear Stockholder:

. . .

Falstaff's sales picture continued to improve during the quarter ending September 30 with net sales, less Federal excise taxes, totaling \$19,984,325. This compares with \$18,341,476 for the same quarter a year ago. Net sales, after Federal excise taxes, for the first nine months were \$52,412,360, an increase of 17 per cent over the same period in 1953.

. . .

For the first nine months of 1954 the per share earnings amounted to \$1.42 as compared with \$1.31 for the same period a year ago.

As pointed out in the report for the preceding quarter, operating costs, particularly wages and marketing, have continued to increase. The highly competitive nature of the brewing industry today has prevented any appreciable increase in price to help offset these rising costs.

. . .

It is the firm conviction of your management that Falstaff's policy of expansion will continue to be a vital factor in the strengthening of the position of this company in the brewing industry.

Sincerely,

JOSEPH GRIESEDIECK
President

Excerpts From Respondent's Exhibit 36

(718)

[LETTERHEAD OF]

FALSTAFF BREWING CORPORATION**QUARTERLY REPORT TO THE STOCKHOLDERS****ENDING MARCH 31, 1955**

Dear Stockholder:

. . .

Gross sales amounted to \$22,054,837 for the quarter as compared to \$19,376,026 in the same period last year. After deduction of federal excise taxes, net sales reached \$15,341,027, an increase of 14 per cent over \$13,440,272 for the same quarter of 1954. First quarter barrelage sales increased to 745,420 from the 658,589 of last year—a rise of 13 per cent.

Included in the 1955 first quarter sales totals is production from the Fort Wayne plant which was not represented in the operation a year ago. It should be pointed out, however, that a large percentage of the new plant's production went into areas served last year by other Falstaff plants, reflecting the continued rise of sales in established territories, as well as increases through the opening of new markets.

. . .

With the demand for Premium Quality Falstaff at an all-time high, your management views the coming months with considerable confidence.

Sincerely,

JOSEPH GRIESEDIECK**President**

Excerpts From Respondent's Exhibit 37

(722)

[LETTERHEAD OF]

FALSTAFF BREWING CORPORATION**QUARTERLY REPORT TO THE STOCKHOLDERS****ENDING JUNE 30, 1955**

Dear Stockholder:

. . .

The continued upward trend in Falstaff sales establishes both the second quarter and first half of 1955 as the highest such periods in company history. Net sales of \$21,616,585 for the second quarter amount to an increase of 14 per cent over the \$18,987,763 for the corresponding quarter a year ago.

Unaudited net earnings (after provision for income taxes) for the second quarter of 1955 amounted to \$1,342,375, or 70 cents per share. This compares with second quarter earnings of a year ago of \$1,074,336, or 55 cents per share.

For the first half of 1955, net sales totaled \$36,957,612, against \$32,428,035 in the like period of 1954, for an increase of 14 per cent. Unaudited earnings, after taxes, totaled \$1,829,521 for the six months, against \$1,633,969 a year ago.

. . .

;

Excerpts From Respondent's Exhibit 37

Barrelage sales of 1,772,364, compared to 1,571,377 in the first half of 1954, reflect not only the production of the latest plant addition at Fort Wayne, but also the stepped-up production at each of Falstaff's five other plants to keep pace with the company's continuous drive in advertising promotion and territory development. June of this year reached a record high in monthly barrelage sales of 383,914.

. . .

The opening of the state of North Dakota, currently in progress with the appointment of several new distributors, is cited as a significant step in Falstaff's continuing program of expanding marketing areas. With demand for Premium Quality Falstaff continually increasing in all markets, present production facilities are being stretched to full capacity. Although additional new sales areas are being studied, our capacity problem precludes the opening of any such major sales areas this year.

With continuation of normal weather for the high selling months ahead, your management feels that Falstaff's outlook for the balance of 1955 is an optimistic one. Moreover, *it is your management's firm belief that Falstaff's dedicated program of expansion during the past few years is now beginning to pay dividends and must be continued if we are to offset our continually tougher competition on the one hand and our steadily increasing costs on the other.*

Sincerely,

JOSEPH GRIESEDEICK
President

Respondent's Exhibit 38

(726)

[LETTERHEAD OF]

FALSTAFF BREWING CORPORATION

July 7, 1954

**TO: ALL DRIVERS AND CITY SALES PERSONNEL,
CITY OF ST. LOUIS**

Although the official figures are not as yet available, it is my understanding that Falstaff in June sold approximately 420,000 cases in St. Louis City and County.

I would like to take this opportunity to congratulate all of you on the attainment of this new record, for this marks the largest number of cases ever sold by Falstaff in St. Louis City and County in the month of June. This record has been achieved in spite of a price cut on the part of Anheuser-Busch and I am confident that the same competitive spirit which enabled you to attain this goal in June will enable you to surpass it in July! I fully realize that Anheuser-Busch's pricing policies in this market have made your job that much tougher, but at the same time Falstaff has always thrived and prospered when the competition was toughest and I know we will continue to do so!

It might interest you to know that in June Falstaff also had the largest month in its history in the cities of New Orleans, Houston and many of its other major markets. Over-all company sales of close to 350,000 barrels in June also set a new record.

Sincerely yours

Joseph Griesedieck

Joseph Griesedieck

JG:bj

Respondent's Exhibit 39

(727)

[LETTERHEAD OF]

GRIESEDIECK WESTERN BREWERY COMPANY

September 23, 1954

TO OUR STAG CUSTOMERS:

The public announcement that the Directors of the Griesedieck Western Brewery Company have voted to recommend to shareholders the sale of the company's assets to the Carling Brewing Company of Cleveland, Ohio, enables me to discuss with you personally the significance of this decision.

For several years it has been very clear that continued progress in the brewing industry would be made only by companies with multiple plants well located throughout the country.

As you know, Griesedieck Western Brewery Company has been and is a most successful company. Our Stag Beer enjoys in Missouri, Illinois and the neighboring states a position equalled by few beers anywhere in the country. We have felt, however, that such a position was no longer sufficient in itself to withstand the intense competitive pressures of the brewing industry as they have developed in recent years.

Accordingly, for some time we have been considering the alternatives of building or acquiring plants in other parts of the nation or seeking ways to merge this company with some other brewing company already in possession of such facilities.

Respondent's Exhibit 39

This being the case, we were most interested to consider the offer of the Carling Brewing Company. The Carling record for progress has been one of the spectacular success stories of the industry. The Carling management enjoys the highest reputation for integrity and successful market development. They have assured us that it is their intention, if their offer is accepted, to use their resources to intensify the advertising and sales of Stag Beer. They are tremendously impressed with the popularity of the Stag brand and have no intention of changing it in any way.

I am sure you will agree that the addition of this Carling effort to the established reputation we have achieved with Stag Beer will greatly benefit our friends in the retail business.

I want to take this opportunity to thank you for the loyal support you have given us, and sincerely hope that you will continue to serve Stag Beer, both bottle and draught, with pride and profit for many years to come.

Cordially yours,

GRIESEDIECK WESTERN BREWERY COMPANY

Edward D. Jones

Edward D. Jones

Chairman of the Board

EDJ:ms

Respondent's Exhibit 40

(729)

[COPY]

September 23, 1954

TO OUR STAG BEER DISTRIBUTORS:

You have undoubtedly heard from outside sources that the Carling Brewing Company of Cleveland, Ohio has offered to purchase the assets of the Griesedieck Western Brewery Company.

Naturally, I would have preferred to advise you of this development personally, but such a course would have been improper until positive action was taken by the Directors of this company. At a meeting of the Board of Griesedieck Western Brewery Company today, it was voted to recommend that the shareholders accept the offer of the Carling Brewing Company. If the shareholders accept this recommendation, the sale will be completed on November 1st, 1954.

This decision was reached after a careful study of the conditions and trends of the brewing industry clearly indicated that such a course would be in the best interest of our shareholders, our employees, our distributors and our retailers.

It has been apparent to us for several years that future growth in this industry will be in the hands of brewing companies with multiple plants, strategically located throughout the country.

Accordingly, for some time we have been considering the alternatives of building or acquiring plants in other parts of the nation, or seeking ways to merge this Com-

Respondent's Exhibit 40

pany with some other brewing company already in possession of such facilities.

This being the case, we were most interested to consider overtures made to us by the Carling Brewing Company. Carling's record and reputation are well known. Their progress in the past six years has been one of the spectacular success stories of the brewing industry. Their management is held in highest esteem for integrity and sound policies.

(730)

The Carling management has assured me that if their offer is accepted, it is their intention to retain and vigorously support the Stag brand, and to devote the surplus capacity of the Griesedieck Plants to the development of Carling's Red Cap Ale and Black Label Beer in the mid-western, Southwestern and southern areas. They are, of course, tremendously impressed with the popularity of the Stag brand, both bottle and draught, and have no intention of changing it in any way.

It is obvious that the addition of Carling resources and promotion to the established reputation we have achieved will benefit all of you who have worked with us these many years.

I want to take this opportunity to thank you for the support you have given us, and assure you that one of the major considerations behind our decision was your future interest. I believe we have served your interest in recommending the acceptance of the Carling offer.

Cordially yours,

GRIESEDIECK WESTERN BREWERY COMPANY

Edward D. Jones
Chairman of the Board

Excerpts From Respondent's Exhibit 43

(756)

ANNUAL REPORT

TO

SHAREHOLDERS

For the Year Ended

December 31, 1950

GRIESEDIECK WESTERN BREWERY COMPANY
Belleville, Illinois St. Louis, Missouri

* * *

(759)

February 6, 1951

TO THE SHAREHOLDERS OF THE
GRIESEDIECK WESTERN BREWERY COMPANY:

* * *

Your Company's earnings for the year 1950 are \$2,283,-675.45 after taxes. This compared with \$2,954,413.04 for the year 1949 or \$3.45 per share as compared to \$4.50 per share for the year 1949 after the payment of Preferred dividends. This represents a decline in 1950 as compared to 1949 and can be attributed in the main to several factors as follows:

1—Increased manufacturing costs due to higher wages and salaries, together with advances in the cost of materials and supplies.

2—Higher selling and advertising costs made necessary by more active competition.

Excerpts From Respondent's Exhibit 43

3—Adverse weather conditions over a large portion of your Company's marketing areas, particularly in the months of July, August, September and December, which are usually peak volume periods.

4—The increase in the corporation income tax rates.

The total brewing industry consumption figures indicate a general decline in volume as compared to 1949. Our Company's sales of STAG Beer were in excess of sales of STAG Beer in 1949, and denote a continued demand and consumer acceptance of our STAG Beer—"America's Finest Dry Beer."

Our sales volume of HYDE PARK Beer, brewer's dried grain and brewer's yeast were less than in 1949.

• • •

(760)

The Company's working capital improved further during the year. At December 31, 1950 current assets totaled \$6,684,820.46, against current liabilities of \$827,561.74, a net working capital of \$5,857,318.72. This reflects the strongest position in the Company's history, with adequate resources to meet the Company's increased sales volume and expansion program.

• • •

Respectfully submitted,

Edward D. Jones.

Excerpts From Respondent's Exhibit 43

[61)

BALANCE SHEET DECEMBER 31, 1950

GRIESEBIECK WESTERN BREWERY COMPANY

ASSETS

CURRENT ASSETS

Cash	\$ 1,441,746.41	
United States Treasury Bills	2,790,400.00	
United States Bonds	183,540.00	
Accounts and Notes Receivable	609,263.91	
Revenue Stamps on Hand	226,638.62	
Inventory of Products and Materials	1,393,499.98	
Cash Value—Life Insurance Policies	39,731.54	
<hr/>		
Total Current Assets		\$ 6,684,820.46
Bottles Out with Trade		872,728.80
Investments—Capital Stock of St. Louis Brewers' Yeast Corp.		10,000.00

FIXED ASSETS

Land, Buildings and Equipment	\$10,756,614.31	
Less—Reserve for Depreciation	2,827,746.85	
<hr/>		
		7,928,867.46
Deferred Charges		134,298.93
<hr/>		
Total Assets		\$15,630,715.65

Excerpts From Respondent's Exhibit 42

(762)

LIABILITIES AND CAPITAL**CURRENT LIABILITIES**

Accounts Payable		\$ 536,179
Accrued Taxes and Wages		241,875
Customers' Credit Balances		538,500
Funds of Employees Held for Purchase of U. S. Bonds		3,672
Preferred Dividend Declared		18,560
Federal and State Income Taxes	\$ 1,664,596.99	
Less—U. S. Treasury Tax Notes and Accrued Interest	1,641,980.00	22,616.99
Total Current Liabilities		\$ 827,500.56
Customers' Deposits for Containers		921,655
Reserve for Unpresented Checks		41,000
Real Estate Mortgage		4,000
Total Liabilities		\$ 1,753,555.56

CAPITAL STOCK

Preferred 5% Cumulative Convertible Authorized, Issued and Outstanding 49,496 Shares \$30.00 Par Each	\$ 1,484,880.00	
Common—Authorized 750,000 Shares Par Value \$2.00 Per Share		
Outstanding—640,000 Shares	1,280,000.00	2,764,880.00

SURPLUS

Capital	\$ 3,959,970.71	
Earned	7,152,294.38	

Total Surplus

11,112,264.38

Total Liabilities and Capital

\$15,630,719.94

Excerpts From Respondent's Exhibit 43

(763)

STATEMENT

OF INCOME, EXPENSES AND SURPLUS
YEAR ENDED DECEMBER 31, 1950

Net Income From Sales	\$ 9,273,425.80
Selling, Administrative and General Expenses	5,482,809.67
	<hr/>
Profit on Operations	\$ 3,790,616.13
Excess of Other Income over Other Expenses	156,624.02
	<hr/>
Net Income Before Income Taxes	\$ 3,947,240.15
Deduct—Federal, Missouri State Income and St. Louis City Earnings Taxes	1,663,564.70
	<hr/>
Final Net Profit	\$ 2,283,675.45
Add—Earned Surplus Beginning of Year	\$6,033,793.98
Add—Adjustments for Prior Year	317,636.81
	<hr/>
	6,351,430.79
	<hr/>
	\$ 8,635,106.24
Less Dividends Paid and Declared	
Preferred Stock Paid and Declared	\$ 74,644.85
Common Stock Paid in Cash	1,408,167.00
	<hr/>
	1,482,811.86
	<hr/>
Earned Surplus—End of Year	<u><u>\$ 7,152,294.38</u></u>

Excerpts From Respondent's Exhibit 44

(768)

ANNUAL REPORT

TO

SHAREHOLDERS

For the Year Ended

December 31, 1951

GRIESEDIECK WESTERN BREWERY COMPANY
Belleville, Illinois St. Louis, Missouri

• • •

(771)

February 6, 1952

TO THE SHAREHOLDERS OF THE
GRIESEDIECK WESTERN BREWERY COMPANY:

• • •

Your Company's earnings for the year 1951 are \$1,321,527.05 after taxes. This compared with \$2,283,675.45 for the year 1950 or \$1.95 per share as compared to \$3.45 per share for the year 1950 after the payment of Preferred dividends. This represents a decline in 1951 as compared to 1950.

• • •

(772)

• • •

Respectfully submitted,

Edward D. Jones,
President.

Excerpts From Respondent's Exhibit 44

(773)

BALANCE SHEET DECEMBER 31, 1951

GRIESEMECK WESTERN BREWERY COMPANY

ASSETS

CURRENT ASSETS

Cash	\$ 1,448,375.10	
United States Treasury Bills	1,792,692.00	
United States Bonds and Notes (\$700,000.00 due Sept., 1953)	1,003,823.38	
Accounts and Notes Receivable	677,730.99	
Revenue Stamps on Hand	312,097.10	
Inventory of Products and Materials	1,687,415.48	
Cash Value—Life Insurance Policies	42,926.50	
<hr/>		
Total Current Assets		\$ 6,965,060.55
Bottles and Cases Out with Trade		984,265.80
Investments—Capital Stock of St. Louis Brewers' Yeast Corp.		10,000.00

FIXED ASSETS

Land, Buildings and Equipment	\$10,653,894.60	
Less—Reserve for Depreciation	2,980,849.58	
<hr/>		
		7,673,045.02
Deferred Charges		120,587.92
<hr/>		
Total Assets		\$15,752,959.29

Excerpts From Respondent's Exhibit 44

(774)

LIABILITIES AND CAPITAL**CURRENT LIABILITIES**

Accounts Payable		\$ 423,500.71
Accrued Taxes and Wages		316,608.4
Customers' Credit Balances		13,927
Funds of Employees Held for Purchase of U. S. Bonds		3,011.2
Preferred Dividend Declared		18,560.00
Federal and State Income Taxes	\$ 1,385,933.31	
Less—U. S. Treasury Tax Notes and Accrued Interest	1,372,417.00	13,516.1
Real Estate Mortgage		2,000.00
Total Current Liabilities		\$ 791,125.8
Customers' Deposits for Containers		1,052,047.8
Total Liabilities		\$ 1,843,173.6

CAPITAL STOCK

Preferred 5% Cumulative Convertible Authorized, Issued and Outstanding 49,491 Shares \$30.00 Par Each	\$ 1,484,730.00	
Common—Authorized 750,000 Shares Par Value \$2.00 Per Share		
Outstanding—640,000 Shares	1,280,000.00	2,764,730.00

SURPLUS

Capital	\$ 3,959,980.71	
Earned	7,185,077.83	

Total Surplus 11,145,058.54

Total Liabilities and Capital \$15,752,959.94

Excerpts From Respondent's Exhibit 44

(775)

STATEMENT

OF INCOME, EXPENSES AND SURPLUS
YEAR ENDED DECEMBER 31, 1951

Net Income From Sales	\$ 8,490,038.67
Selling, Administrative and General Expenses	5,976,532.80
Profit on Operations	\$ 2,513,505.87
Excess of Other Income over Other Expenses	194,017.99
Net Income Before Income Taxes	\$ 2,707,523.86
Deduct—Federal and Missouri State Income Taxes	1,385,996.81
Final Net Profit	\$ 1,321,527.05 ✓
Add—Earned Surplus Beginning of Year	\$7,152,294.38
Add—Adjustments for Prior Year	65,497.40
	7,217,791.78
	\$ 8,539,318.83
Less Dividends Paid and Declared	
Preferred Stock Paid and Declared	\$ 74,241.00
Common Stock Paid in Cash	1,280,000.00
	1,354,241.00 ✓
Earned Surplus—End of Year	\$ 7,185,077.83

Excerpts From Respondent's Exhibit 45

(780)

ANNUAL REPORT

TO

SHAREHOLDERS

For the Year Ended

December 31, 1953

GRIESEDIECK WESTERN BREWERY COMPANY
Belleville, Illinois St. Louis, Missouri

• • •

(783)

February 12, 1954

TO THE SHAREHOLDERS OF THE
GRIESEDIECK WESTERN BREWERY COMPANY:

• • •

I am happy to report we again exceeded all previous years with total sales to our customers of \$31,842,211. This exceeded last year by 4.87 per cent. Our sales, on a barrelage basis, have more than kept pace with the brewing industry. The industry reports barrelage sales about 2.18 per cent higher than 1952.

• • •

Excerpts From Respondent's Exhibit 45

The Company's working capital continues to be satisfactory. At the year end our current assets, including \$4,599,103 in cash and United States Treasury bills, amounted to \$7,567,618 against current liabilities of \$980,709, a net working capital of \$6,586,909. The current ratio is 7.7 to 1. This strong current position permits us to meet the challenge of aggressive competition felt throughout our sales territories. Also, it enables us to consider any expansion, acquisitions or mergers that will further our interests. However, to date, our directors have not found anything of this character that they could seriously recommend.

• • •

(784)

• • •

We believe that the future holds promise for the further growth of packaged beer, both in bottles and cans. The industry reports about 75 per cent packaged beer and 25 per cent draught beer. We are currently running about 86 per cent packaged beer and 14 per cent draught beer.

• • •

Respectfully submitted,

Edward D. Jones,
Chairman of the Board

Excerpts From Respondent's Exhibit 45

(785)

CONSOLIDATED BALANCE SHEET DECEMBER 31, 1954

GRIESEDECK WESTERN BREWERY COMPANY AND
WHOLLY OWNED SUBSIDIARY

ASSETS

CURRENT ASSETS

Cash	\$ 1,709,738.62
United States Treasury Bills	2,889,364.00
United States Bonds and Notes (\$700,000.00 due Sept., 1954)	706,343.30
Accounts and Notes Receivable	799,593.66
Revenue Stamps on Hand	181,235.06
Inventory of Products and Materials	1,231,842.18
Cash Value—Life Insurance Policies	49,501.01

Total Current Assets	\$ 7,567,615.82
Bottles and Cases Out with Trade	1,037,018.90
Investments—Capital Stock of St. Louis Brewers' Yeast Corp.	10,000.00

FIXED ASSETS

Land, Buildings and Equipment	\$11,155,539.46
Less—Reserve for Depreciation	3,823,656.69

	7,331,882.77
Deferred Charges	155,069.77

Total Assets	\$16,101,588.34
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Excerpts From Respondent's Exhibit 45

(86)

LIABILITIES AND CAPITAL**CURRENT LIABILITIES**

Accounts Payable	\$	396,139.10
Accrued Taxes and Wages		294,924.18
Customers' Credit Balances		10,008.12
Funds of Employees Held for Purchase of U. S. Bonds		2,667.21
Common and Preferred Dividend Declared		258,021.83
Federal and State Income Taxes	\$	1,143,057.80
Less—U. S. Treasury Tax Notes and Accrued Interest		1,124,109.50
		18,948.30
Total Current Liabilities	\$	980,708.74
Customers' Deposits for Containers	\$	1,084,118.42
Total Liabilities	\$	2,064,827.16

CAPITAL STOCK

Preferred 5% Cumulative Convertible Authorized, Issued and Outstanding 48,051 Shares \$30.00 Par Each	\$	1,441,530.00
Common—Authorized 750,000 Shares Par Value \$2.00 Per Share		
Outstanding—640,000 Shares		1,280,000.00
		2,721,530.00

SURPLUS

Capital	\$	3,963,576.96
Earned		7,351,654.50
Total Surplus		11,315,231.46
Total Liabilities and Capital		\$16,101,588.62

Excerpts From Respondent's Exhibit 45

(787)

CONSOLIDATED STATEMENT OF INCOME, EXPENSES AND
SURPLUS YEAR ENDED DECEMBER 31, 1953

Net Income From Sales	\$ 7,746,588.91
Selling, Administrative and General Expenses	5,822,844.40
Profit on Operations	\$ 1,923,744.51
Excess of Other Income over Other Expenses	175,511.77
Net Income Before Income Taxes	\$ 2,099,256.28
Deduct—Federal and Missouri State Income Taxes	1,133,947.90
Final Net Profit	\$ 965,308.38
Add—Earned Surplus Beginning of Year	7,418,557.80
	\$ 8,383,866.18
Less Dividends Paid and Declared	
Preferred Stock Paid and Declared \$ 72,228.56	
Common Stock Paid and Declared 960,010.51	
	1,032,239.07
Earned Surplus—End of Year	\$ 7,351,627.11

Excerpts From Respondent's Exhibit 46

(792)

[LETTERHEAD OF]

GRIESEDIECK WESTERN BREWERY COMPANY

October 1, 1954

**TO THE SHAREHOLDERS OF GRIESEDIECK WESTERN
BREWERY COMPANY:**

Enclosed herewith you will find notice of a special meeting of shareholders to be held on Monday, October 25, 1954, together with a form of proxy and accompanying proxy statement. The special meeting of shareholders has been called to consider and vote upon a proposal to sell the Company's brewery assets to Carling Brewing Company Incorporated of Cleveland, Ohio, and, if this proposal is approved by the shareholders, to vote upon an amendment to the Company's charter changing its corporate name from Griesedieck Western Brewery Company to The Griesedieck Company.

The enclosed proxy statement contains detailed information regarding the proposal to sell the Company's assets. Briefly, under the agreement of sale Carling will purchase all of the Company's brewing assets, exclusive of cash and marketable securities, at their net book values as reflected in the Company's accounts on the opening of business on November 1, 1954, the closing date for the sale. On the basis of the Company's balance sheet as of August 31, 1954, the cash proceeds of the sale, together with the Company's cash, securities and other assets not being sold, will amount to approximately \$19.50 per share of Common stock, after

Excerpts From Respondent's Exhibit 46

providing for the prior claim of Preferred shareholders and after provision for the liabilities of the Company which are not assumed by Carling under the agreement of sale. The actual amount of cash to be received by the Company as the purchase price will depend upon the book accounts of the Company as of the date of closing and these accounts cannot be determined finally at this time. However, in the best judgment of our accountants, the book amounts as of the closing date should not be materially different from those existing as of August 31, 1954.

After careful study, your Board of Directors has unanimously approved the agreement of sale with Carling as being in the best interests of the shareholders and your approval of the sale is recommended.

Actual consummation of the sale will not in itself effect liquidation of your Company. This is a matter to be decided by the shareholders. In view of tax consequences, a number of shareholders have expressed to me the suggestion that the Company be continued as a diversified investment trust. I believe that the idea is an excellent one and I know that in addition to members of our present Board I can secure competent people to conduct this type of business successfully, and I will personally further it if the shareholders approve it. To accomplish this purpose it will be necessary to amend the corporate charter, which will require approval of shareholders at a meeting to be called for that purpose. No decision has been reached at this time and shareholders are invited to express their views on this matter.

Excerpts From Respondent's Exhibit 46

Should you have any question pertaining to any of the proposals to be voted upon at the meeting I will be glad to discuss them with you at your convenience.

Since approval of the sale requires the affirmative vote of two-thirds of the combined Preferred and Common shares, you are earnestly requested to send in your proxy at once. This will not prevent your voting your own shares at the meeting if you plan to be personally present.

Yours very truly,

EDWARD D. JONES,

Chairman of the Board

* * *

(794)

PROXY STATEMENT

* * *

BUSINESS TO BE TRANSACTED AT THE MEETING

At the special meeting of shareholders to be held on the above date, shareholders will vote to approve or reject an agreement of sale dated September 23, 1954, upon the terms and conditions of which Griesedieck Western Brewery Company will sell its brewing assets to Carling Brewing Company Incorporated of Cleveland, Ohio.

* * *

*Excerpts From Respondent's Exhibit 46***LOCATION OF THE COMPANY'S PROPERTY
AND MATERIAL PROVISIONS OF THE AGREEMENT OF SALE**

Griesedieck Western Brewery Company, an Illinois corporation with its principal office located at 1201 West "E" Street, Belleville, Illinois, is engaged in the brewing and sale of draught and packaged beer under the trade names of "Stag" and "Hyde Park 75". "Stag" beer, which accounts for approximately 95% of the Company's sales, is sold and distributed throughout all of the mid-western states of the United States.

* * *

Under the agreement of sale dated September 23, 1954, Griesedieck Western Brewery Company has agreed to sell and Carling Brewing Company Incorporated of Cleveland, Ohio (hereinafter sometimes referred to as "Carling") has agreed to purchase all of Griesedieck Western's brewing assets, including, but not by way of limitation, all of its real estate, brewing plants, brewing equipment and machinery, trucks, supplies and other chattel property, inventories, beer in process, finished products, good will, trade names and trade marks, copy-rights, designs, leases and leaseholds, trade accounts and other debts due and accruing due to the Company, contracts, all of the shares of stock of St. Louis Brewers' Yeast Corporation owned by the Company, the use of the name Griesedieck Western Brewery Company and all federal and state revenue stamps, licenses and permits owned by the Company to the (795) extent that these are transferable to Carling. There is specifically excluded from the agreement of sale the Company's cash on

Excerpts From Respondent's Exhibit 46

hand and in the banks, United States Treasury bills and other marketable investments and accrued interest thereon, tax notes, Preferred stock of the Company re-acquired by it and held as treasury stock, all life insurance owned by the Company on the lives of its officers and all of the outstanding shares of Stag Beer Corporation, a subsidiary owned by the Company. Stag Beer Corporation which operates as a small sales branch of the Company in Chicago, Illinois, will be liquidated and its net tangible assets, having a book cost of \$8,268.71, will be disposed of by the Company.

With the exception of shares of St. Louis Brewers' Yeast Corporation which are to be purchased at their book value, the aggregate consideration to be paid to Griesedieck Western by Carling for these assets will be an amount equal to the aggregate net book value thereof as entered on the books of Griesedieck Western at the opening of business on the closing date.

* * *

Translated into dollars, and based on the unaudited, consolidated balance sheet of the Company as of August 31, 1954, shown on pages 8 and 9 of the proxy statement, the gross purchase price payable by Carling to Griesedieck Western under the agreement of sale, adjusted for the purchase price of the stock of St. Louis Brewers' Yeast Company over carrying value, and decreased by the amount of fixed assets in Stag Beer Corporation not purchased by Carling, amounts to \$11,447,596.61. The total amount of liabilities to be assumed by Carling in part satisfaction of the purchase price as of August 31, 1954 is \$2,011,507.24, leaving a net purchase price payable to Griesedieck West-

Excerpts From Respondent's Exhibit 46

ern in cash of \$9,436,089.37. Cash on hand, U. S. Government bonds and Treasury bills, tax notes, marketable securities and cash surrender value of life insurance policies owned by the Company as of August 31, 1954 amount to \$4,534,693.17. Therefore, on the basis of the book accounts of the Company existing as of August 31, 1954, the Company's assets following consummation of the agreement of sale will consist of cash, U. S. Government bonds and Treasury bills, tax notes, marketable securities, cash surrender value of life insurance and fixed assets of Stag Beer Corporation totaling \$13,979,051.25. After allowing for current liabilities of the Company as of August 31, 1954, not assumed by Carling, and after allowing for the prior claim of preferred shareholders at the par value thereof plus accrued dividends to November 1, 1954, the net equity available for the Common stock would be \$12,481,864.98 or \$19.50 for each Common share.

(796)

INFORMATION CONCERNING THE PURCHASER

Carling Brewing Company Incorporated, a Virginia corporation, with its principal office at 9400 Quincy Avenue, Cleveland, Ohio, is engaged in the brewing and sale of packaged beer and ale under the trade names Carling's "Red Cap" ale and Carling's "Black Label" beer. The Company's plant, located in the City of Cleveland, Ohio, has a productive capacity of approximately 1,750,000 barrels of beer annually. Carling's beer and ale has excellent consumer acceptance in most of the states of the United States and also in Canada. To provide for additional brew-

Excerpts From Respondent's Exhibit 46

ing facilities to meet increased sales, Carling has recently acquired a site for the construction of a brewery in the City of Natick, Massachusetts. Griesedieck Western is informed that if the agreement of sale is consummated, Carling intends to continue the production and sale of "Stag" beer and to use the additional facilities to expand the sale of its own products in the Company's sales areas.

REASONS FOR THE SALE AND FAIRNESS OF THE CONSIDERATION

For a number of years the net earnings of Griesedieck Western Brewery Company have been declining, despite a record volume of sales achieved in several of these years. From a high of \$4.50 per share on the present outstanding Common shares for the year ended December 31, 1949, the net earnings of the Company declined to \$1.86 per Common share for the year ended December 31, 1952 and to \$1.89 per share for the year ended December 31, 1953. For the eight months ended August 31, 1954, net earnings of the Company, subject to year-end adjustments, amounted to 42¢ per Common share, compared to \$1.19 per share for the same period a year ago. The decline in earnings is directly attributable to inability to achieve increased sales volume to offset higher costs of doing business, due to increased labor costs, materials, advertising and sales promotion. In the opinion of management of the Company, a multiple-plant company with a large volume of sales is best equipped to realize the efficiency and economy of operation and the maximum results from its advertising and sales promotion outlays necessary to operate profitably under present conditions in the brewing industry. This method is now practiced by all of the breweries of nationally advertised premium beers and by the larger breweries of semi-nationally

Excerpts From Respondent's Exhibit 46

advertised popular priced beers. To attain this objective for Griesedieck, Western, its management has had under consideration a number of proposals to acquire breweries in other parts of the country through merger, exchange of stock or outright purchase. To date none of these proposals was deemed sufficiently attractive to the Board of Directors of the Company for submission to the shareholders. Not having attained this objective, it is the opinion of the Board of Directors that the offer of Carling for all of the assets of the Company should be accepted as in the best interests of the shareholders. Recognizing that many of the shareholders would be interested in retaining a proprietary interest in any continuing enterprise, representatives of the Company, in the course of their negotiations with representatives of Carling, tried to work out an arrangement whereby the Company's assets would be transferred through an exchange of stock. However, the shares of Carling are not publicly owned, and Canadian Breweries of Toronto, Canada, owner of all but a small percentage of the outstanding capital shares of Carling, was unwilling to offer its shares in exchange for the Company's assets. Despite the fact that the agreement of sale does not provide for the retention by the shareholders of a proprietary interest in the continuing enterprise, it is the unanimous opinion of the Board of Directors of the Company that the offer of purchase is fair in the light of prevailing conditions in the brewing industry, and therefore, approval is recommended.

• • •

Excerpts From Respondent's Exhibit 46
(797)

PLANS OF COMPANY FOLLOWING CONSUMMATION OF
AGREEMENT OF SALE

Following the consummation of the agreement of sale, the Company, subject to the approval of the shareholders, can distribute its assets pursuant to a plan of liquidation and dissolution, or engage in another type of business other than the brewing business. While a large portion of the Company's assets would be distributable to shareholders under a plan of liquidation and dissolution within a relatively short period of time, amounts as yet undetermined would have to be retained as a reserve for possible claims under the Company's agreement of indemnity with Carling, completion of examination of tax returns, and other contingencies. Consequently complete liquidation will involve considerable time. The only other type of business under consideration by the Board of Directors is that of converting the Company into a closed or open end type of investment trust, the purpose of which would be to purchase, hold and sell investment type securities and to distribute dividends and net capital gains to its shareholders. A number of shareholders have recommended this program to the Directors of the Company in view of tax consequences resulting to them, should the Company be dissolved and its assets distributed. Edward D. Jones, Chairman of the Board of the Company, is also senior partner of Edward D. Jones & Company, investment bankers, members of the New York Stock Exchange and thoroughly familiar with this type of business. Discussions are under way to determine whether several additional men, skilled in this type of business, are available to join the Company. No decision has been reached at this time. To accomplish the

Excerpts From Respondent's Exhibit 46

conversion of the Company into an investment trust will require appropriate amendments to its corporate charter which must be approved by the shareholders. Shareholders are invited to write the Company of their views on this matter. As soon as practicable after the consummation of the agreement of sale, the Company will send to the shareholders a report of its assets and liabilities reflecting the consummation of the sale and a further statement as to the Company's intention concerning future operations.

INTERESTS OF MANAGEMENT AND ASSOCIATES

Negotiations covering the sale of the Company's assets were carried on by representatives of the Company with representatives of Carling on the basis of arm's-length bargaining. No commissions or brokerage fees are being paid in connection with the sale. No Officer or Director of the Company or any Associate of any such Officer or Director has any interest in the matter to be acted upon other than the interest common to all shareholders of the Company by reason of their ownership of shares in the Company.

• • •

MARKET PRICE OF SECURITIES

The Common stock of Griesedieck Western Brewery Company is listed on the American Stock Exchange and on the Midwest Stock Exchange. The published high and low sales prices of the Common stock on said Exchanges for each quarterly period during the years 1952 and 1953 and during the first two quarters of 1954, are as follows:

Excerpts From Respondent's Exhibit 46

<i>1952</i>	<i>High</i>	<i>Low</i>
First Quarter	22 $\frac{1}{4}$	— 18
Second Quarter	18 $\frac{1}{2}$	— 17
Third Quarter	19	-- 16 $\frac{7}{8}$
Fourth Quarter	17 $\frac{3}{4}$	— 16
<i>1953</i>	<i>High</i>	<i>Low</i>
First Quarter	19 $\frac{1}{2}$	— 17
Second Quarter	18 $\frac{1}{2}$	— 17 $\frac{1}{2}$
Third Quarter	18 $\frac{1}{4}$	— 15 $\frac{1}{2}$
Fourth Quarter	16 $\frac{1}{2}$	— 14 $\frac{5}{8}$
<i>1954</i>	<i>High</i>	<i>Low</i>
First Quarter	15	-- 12 $\frac{1}{2}$
Second Quarter	12 $\frac{5}{8}$	— 9 $\frac{1}{8}$

On September 17, 1954 the Common stock of Griesedieck Western Brewery Company sold at \$15.25 per share on both the American Stock Exchange and the Midwest Stock Exchange.

(798)

. . .
 By order of the Board of Directors,
 WALTER H. KOCH,
Secretary.

Dated Belleville, Illinois, October 1, 1954.

Respondent's Exhibit 48

(805)

[LETTERHEAD OF]

GRIESEDIECK WESTERN BREWERY COMPANY

June 23, 1954

Dear Friend:

Considerable confusion has developed in St. Louis and St. Louis County regarding the price structure of beers.

Emphatically we will not change the character and quality of Stag Beer, and for this reason, we *cannot* reduce the price.

Stag has always been a premium quality beer, brought and sold to you and your customers at popular prices . . . prices that are possible because of limited and concentrated distribution. In other words, Stag is not sold all over the United States and, therefore, does not have the problems of freight equalization or national advertising, which are costly items in themselves and have no bearing on quality of product . . . and these costly items of the nationally distributed beers have had to be passed on to you and the consumer and are still being passed on in markets outside of St. Louis.

Stag has long been the most popular beer in St. Louis and St. Louis County . . . there must be a reason . . . we feel the reason is, call it what you may, Stag has always been top quality or premium quality at the right price.

Respondent's Exhibit 48

We feel sure you understand our position and will agree with us that Stag has always been honestly made and honestly priced.

We also feel that you are entitled to the same service you have received in the past.

Thank you for your friendship and cooperation.

Sincerely,

GRIESEDIECK WESTERN BREWERY COMPANY

Edward D. Jones

Edward D. Jones

Chairman of the Board

EDJ:ms

Excerpts From Respondent's Exhibit 49

(806)

ANNUAL REPORT

TO

SHAREHOLDERS

For the Year Ended

December 31, 1948

**GRIESEDIECK WESTERN BREWERY COMPANY
Belleville, Illinois**

(808)

February 4, 1949

**TO THE SHAREHOLDERS
OF GRIESEDIECK WESTERN BREWERY COMPANY:**

* * *

Your Company continued to show progress in 1948. Net earnings amounted to \$2,472,118.26.

The Company's working capital improved considerably during the year. At December 31, 1948, current assets totaled \$4,139,399.42, against current liabilities of \$749,816.42, a net working capital of \$3,389,583.00. This reflects the strongest position in the Company's history, with adequate resources for all probable operational contingencies.

* * *

Excerpts From Respondent's Exhibit 49

The merger of Hyde Park Breweries Association, Inc., into Griesedieck Western Brewery Company became effective as of November 20, 1948. The acquisition of the Hyde Park Plant gave us an additional, modern, up-to-date brewery.

• • •

On December 1, 1948, we sold, through underwriters, \$1,500,000 par value of our 5% Cumulative Convertible Preferred Stock. The funds thus derived will give us ample working capital for our enlarged sales and brewing requirements.

• • •

Respectfully submitted,

EDWARD D. JONES,
President

Excerpts From Respondent's Exhibit 49

(809)

BALANCE SHEET DECEMBER 31, 1948

GRIESEDIECK WESTERN BREWERY COMPANY

A S S E T S

CURRENT ASSETS

Cash	\$ 1,866,696.70
United States Bonds	187,043.76
Accounts and Notes Receivable	570,892.29
Revenue Stamps on Hand	237,582.87
Inventory of Products & Materials	1,243,612.07
Cash Value—Life Insurance Policies	33,571.73

Total Current Assets	\$ 4,139,397.42
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Bottles Out with Trade	563,774.44
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Investments—Capital Stock of St. Louis Brewers Yeast Corp.	10,000.00
--	-----------

FIXED ASSETS

Land, Building and Equipment	\$10,202,029.20
Less—Reserve for Depreciation	2,097,492.42

New Construction in Progress	\$ 8,104,536.78
	29,029.63

Deferred Charges	8,133,594.11
	101,920.00

Total Assets	\$12,948,646.55
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*Excerpts From Respondent's Exhibit 49***LIABILITIES AND CAPITAL****CURRENT LIABILITIES**

Accounts Payable	\$	362,622.39
Accrued Taxes and Wages		204,496.23
Customers Credit Balances		2,703.93
Funds of Employees Held for Purchase of U. S. Bonds		2,874.20
Preferred Dividend Declared		12,500.00
Federal and State Income Taxes	\$	1,659,405.41
Less—U. S. Treasury Tax Notes and Accrued Interest		1,494,785.74
		164,619.67
Total Current Liabilities	\$	749,816.42
Customers' Deposits for Containers		1,020,766.04
Reserve for Unpresented Checks		468.69
Real Estate Mortgage		8,000.00
Total Liabilities	\$	1,779,051.15

CAPITAL STOCK

Preferred 5% Cumulative Convertible Authorized, Issued and Outstanding 50,000 shares \$30.00 Par Each	\$	1,500,000.00
Common—Authorized 750,000 Shares Par Value \$2.00 Per Share Outstanding—640,017 Shares		1,280,034.00
		2,780,034.00

SURPLUS

Capital	\$	3,955,139.71
Earned		4,434,418.61
Total Surplus		8,389,558.32
Total Liabilities and Capital		\$12,948,643.47

Excerpts From Respondent's Exhibit 49

(810)

CONSOLIDATED STATEMENT

OF INCOME, EXPENSES AND SURPLUS

YEAR ENDED DECEMBER 31, 1948

Griesedieck Western Brewery Company

and

Griesedieck Western Brewery Company of Missouri

Net Income From Sales	\$ 7,288,674.41
Selling, Administrative and General Expenses	3,334,000.50
Profit on Operations	\$ 3,954,673.91
Excess of Other Income over Other Expenses	39,811.00
Net Income Before Income Taxes	\$ 3,994,484.91
Deduct—Federal, Missouri State Income and St. Louis City Earnings Taxes	1,522,260.41
Final Net Profit	\$ 2,472,224.50
Add—Earned Surplus Beginning of Year	2,663,150.00
	\$ 5,135,374.50
Less Dividends Paid and Declared	
Preferred Stock (Declared Payable February 1, 1949)	\$ 12,500.00
Common Stock Paid in Cash	589,064.00
	\$ 601,564.00
Commission and Expenses in Con- nection with Preferred Stock	
Issue	97,781.22
Miscellaneous Adjustments	1,505.60
	700,850.82
Earned Surplus—End of Year	\$ 4,434,418.68

Excerpts From Respondent's Exhibit 49

STATEMENT OF CAPITAL SURPLUS

Balance Beginning of Year	\$ 604,661.50
Added—Book Value of Net Assets Acquired in Connection with Merger of Hyde Park Breweries Association, Inc., into Griesedieck Western Brewery Company	\$ 3,746,916.61
Less—Capital Stock Issued—Net 198,219 1/5 Shares at \$2.00 Par	396,438.40
	<hr/>
	3,350,478.21
Capital Surplus—End of Year	<hr/> <hr/> \$ 3,955,139.71

Excerpts From Respondent's Exhibit 50

(812)

ANNUAL REPORT

TO

SHAREHOLDERS

For the Year Ended

December 31, 1949

GRIESEDIECK WESTERN BREWERY COMPANY
Belleville, Illinois - St. Louis, Missouri

• • •

(814)

February 8, 1950

TO THE SHAREHOLDERS
OF THE GRIESEDIECK WESTERN BREWERY COMPANY:

• • •

Griesedieck Western Brewery Company had a good year in 1949. It was a year that tested the resourcefulness of our organization, and our sales volume indicates the continued wide acceptance of our quality beers. Net earnings amounted to \$2,954,413.04, which, after providing for dividends on the Preferred Stock, was the equivalent of \$4.50 per share on the Common Stock.

Excerpts From Respondent's Exhibit 50

The Company's working capital improved considerably during the year. At December 31, 1949, current assets totaled \$5,512,670.58, against current liabilities of \$515,511.67, a net working capital of \$4,997,158.91. This reflects the strongest position in the Company's history, with adequate resources to meet the Company's increased sales volume and expansion program.

• • •

Respectfully submitted,

EDWARD D. JONES,
President

Excerpts From Respondent's Exhibit 50

(815)

BALANCE SHEET DECEMBER 31, 1949**GRIESEDIECK WESTERN BREWERY COMPANY****A S S E T S****CURRENT ASSETS**

Cash	\$ 1,765,856.12
United States Treasury Bills	1,595,786.86
United States Bonds	240,572.48
Accounts and Notes Receivable	592,651.78
Revenue Stamps on Hand	276,075.88
Inventory of Products and Materials	1,005,116.82
Cash Value—Life Insurance Policies	36,610.64

Total Current Assets	\$ 5,512,678.56
----------------------------	-----------------

Bottles Out with Trade	611,097.12
Investments—Capital Stock of St. Louis Brewers' Yeast Corp.	10,000.00

FIXED ASSETS

Land, Buildings and Equipment	\$10,609,766.56
Less—Reserve for Depreciation	2,540,146.96

Deferred Charges	8,069,619.56
	93,471.12

Total Assets	\$14,296,850.00
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*Excerpts From Respondent's Exhibit 50***LIABILITIES AND CAPITAL****CURRENT LIABILITIES**

Accounts Payable	\$	240,638.02
Accrued Taxes and Wages		235,117.01
Customers' Credit Balances		2,322.87
Funds of Employees Held for Purchase of U. S. Bonds		2,682.02
Preferred Dividend Declared		18,750.94
Federal and State Income Taxes	\$ 1,827,150.33	
Less—U. S. Treasury Tax Notes and Accrued Interest	1,811,149.52	16,000.81
		<hr/>
Total Current Liabilities	\$	515,511.67
Customers' Deposits for Containers		1,005,948.40
Reserve for Unpresented Checks		428.74
Real Estate Mortgage		6,000.00
		<hr/>
Total Liabilities	\$	1,527,888.81

CAPITAL STOCK

Preferred 5% Cumulative Convertible Authorized, Issued and Outstanding 50,000 Shares \$30.00 Par Each	\$ 1,500,000.00	
Common—Authorized 750,000 Shares Par Value \$2.00 Per Share		
Outstanding—640,017 Shares	1,280,034.00	2,780,034.00
		<hr/>

SURPLUS		
Capital	\$ 3,955,139.71	
Earned	6,033,793.98	
		<hr/>
Total Surplus		9,988,933.69
		<hr/>
Total Liabilities and Capital		\$14,296,856.50

Excerpts From Respondent's Exhibit 50

(816)

S T A T E M E N T

OF INCOME, EXPENSES AND SURPLUS

YEAR ENDED DECEMBER 31, 1949

Net Income From Sales	\$10,211.44
Selling, Administrative and General Expenses	5,519.25
Profit on Operations	\$ 4,692.19
Excess of Other Income over Other Expenses	84.77
Net Income Before Income Taxes	\$ 4,776.96
Deduct—Federal, Missouri State Income and St. Louis City Earnings Taxes	1,822.30
Final Net Profit	\$ 2,954.66
Add—Earned Surplus Beginning of Year	4,434.42
	\$ 7,389.08
Less Dividends Paid and Declared	
Preferred Stock Paid and Declared \$ 75,003.67	
Common Stock Paid in Cash	1,280,034.00
	<hr/>
	1,355,037.67
Earned Surplus—End of Year	<hr/> <hr/> \$ 6,033.78

Excerpts From Respondent's Exhibit 51

(818)

ANNUAL REPORT

TO

SHAREHOLDERS**For the Year Ended****December 31, 1952**

GRIESEDIECK WESTERN BREWERY COMPANY
Belleville, Illinois - St. Louis, Missouri

(\$20)

CONSOLIDATED BALANCE SHEET DECEMBER 31, 1952

GRIESEDIECK WESTERN BREWERY COMPANY AND
WHOLLY OWNED SUBSIDIARY

A S S E T S**CURRENT ASSETS**

Cash	\$ 1,347,249.00
United States Treasury Bills	2,587,960.00
United States Bonds and Notes (\$700,000.00 due Sept., 1953)	894,874.38
Accounts and Notes Receivable	764,187.00
Revenue Stamps on Hand	193,374.83
Inventory of Products and Materials	1,490,526.59
Cash Value—Life Insurance Policies	46,186.05

Total Current Assets	\$ 7,324,357.85
----------------------------	-----------------

Bottles and Cases Out with Trade	992,914.92
Investments—Capital Stock of St. Louis Brewers' Yeast Corp.	10,000.00

FIXED ASSETS

Land, Buildings and Equipment	\$10,972,489.82
Less—Reserve for Depreciation	3,451,897.01

Deferred Charges	7,520,592.81
	149,511.26

Total Assets	\$15,997,376.84
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*Excerpts From Respondent's Exhibit 51***LIABILITIES AND CAPITAL****CURRENT LIABILITIES**

Accounts Payable	\$	490,412
Accrued Taxes and Wages		298,041
Customers' Credit Balances		6,458
Funds of Employees Held for Purchase of U. S. Bonds		2,731
Preferred Dividend Declared		18,125
Federal and State Income Taxes	\$	1,454,007.76
Less—U. S. Treasury Tax Notes and Accrued Interest		1,438,359.00
		<hr/>
Total Current Liabilities	\$	832,200
Customers' Deposits for Containers		1,049,740
		<hr/>
Total Liabilities	\$	1,881,940

CAPITAL STOCK

Preferred 5% Cumulative Convertible Authorized, Issued and Outstanding 48,486 Shares \$30.00 Par Each	\$	1,454,580.00
Common—Authorized 750,000 Shares Par Value \$2.00 Per Share Outstanding—640,000 Shares		1,280,000.00
		<hr/>

SURPLUS

Capital	\$	3,962,271.96
Earned		7,418,577.43
		<hr/>
Total Surplus		11,380,849
		<hr/>
Total Liabilities and Capital		\$15,997,378

Excerpts From Respondent's Exhibit 51

(21)

**CONSOLIDATED STATEMENT
OF INCOME, EXPENSES AND SURPLUS
YEAR ENDED DECEMBER 31, 1952**

Net Income From Sales	\$ 8,453,687.54
Selling, Administrative and General Expenses	5,840,250.41
Profit on Operations	\$ 2,613,437.13
Excess of Other Income over Other Expenses	107,377.75
Net Income Before Income Taxes	\$ 2,720,814.88
Deduct—Federal and Missouri State Income Taxes	1,454,284.06
Final Net Profit	\$ 1,266,530.82
Add—Earned Surplus Beginning of Year	7,185,077.83
	\$ 8,451,608.65
Less Dividends Paid and Declared	
Preferred Stock Paid and Declared \$ 73,021.74	
Common Stock Paid in Cash 960,009.48	
	1,033,031.22
Earned Surplus—End of Year	\$ 7,418,577.43

Respondent's Exhibit 53

(823)

1953

Beer purchases	82,090.49
Beer sales	106,609.86

1954

Beer purchases	80,899.15
Beer sales	107,824.71

1955—1st 10 months

Beer purchases	66,946.87
Beer sales	90,977.87

Peak in Feb. 1954

5.1% decline in 1953 to 1954

18.5% decline last half of 1953
to last half 1954

Decline started in July 1954

[LETTERHEAD OF]
R. C. SANDY BEAMAN and SONS

Respondent's Exhibit 54

1241

	1953					1954					1955				
	Falstaff	G.B.	Stag	Miller	Bud	Fal.	G.B.	Stag	Miller	Bud	Fal.	G.B.	Stag	Miller	Pwt
Jan.	170	474			66	215	485	154	45	78	240	335	217	16	14
Feb.	146	398			72	331	510	159	36	72	298	370	232	32	56
Mar.	161	584			101	307	575	213	57	73	300	389	223	58	66
Apr.	145	487			58	260	500	170	32	43	366	447	251	59	51
May	230	588			85	350	620	231	74	95	472	513	29	86	66
June	392	626			62	572	845	274	108	166	399	470	291	67	87
July	140	730			36	460	687	289	52	72	555	545	359	77	109
Aug.	257	780			31	387	578	277	70	53	604	505	273	73	96
Sept.	200	590			25	370	540	253	67	50	511	445	250	59	112
Oct.	258	640			18	449	485	235	54	50	430	365	217	42	115
Nov.	246	610			30	362	465	244	39	53	10 Months				
Dec.	346	678			24	530	535	272	73	64	Totals				
Total	2691	7185	2664	576	608	4593	6818	2771	707	869	4175	4384	2604	569	772
51%					43%					35%					
14124					15758—12 mos. 13123—10 mos.					12504					

GRIESEDIECK BEER

81)

1953

1954

1955

	24/12 Bot.	12/12 Can	24/12 Can	8/6 Can	1/2 Bbl.	24/12 Bot.	12/12 Can	24/12 Can	8/6 Can	1/2 Bbl.	24/12 Bot.	12/12 Can	24/12 Can	8/6 Can	1/2 Bbl.
Jan.	95	80 1/2	✓	2	✓	93	90	53	✓	✓	83	113	✓	✓	✓
Feb.	87	85 1/2	✓	2	✓	101	88 1/2	✓	✓	✓	53	95	✓	4	✓
Mar.	98	111 1/2	✓	4	✓	83	102 1/2	✓	2	✓	48	88	✓	6	✓
Apr.	107	105 1/2	✓	✓	✓	91	134 1/2	✓	✓	✓	58	102	✓	6	✓
May	138	162	✓	4	✓	102	127	✓	4	✓	82	150	✓	4	✓
June	147	272 1/2	✓	2	✓	121	162	✓	4	✓	63	98	✓	2	✓
July	151	163	✓	2	✓	123	183	✓	14	✓	80	144	✓	6	✓
Aug.	139	211	✓	4	✓	117	206	✓	4	✓	91	160	✓	2	✓
Sept.	128	181 1/2	✓	✓	✓	103	143	✓	6	✓	68	112	✓	12	✓
Oct.	120	142	✓	2	✓	99	123 1/2	✓	4	✓	80	114	✓	2	✓
Nov.	97	125 1/2	✓	2	✓	98	128	✓	4	✓	47	58	✓	4	✓
Dec.	98	116	✓	6	✓	73	80	✓	4	✓	Up to and including Nov. 25				
Total	1405	1756 1/2	✓	32	✓	1204	1579	53	46	✓	753	1234	✓	48	✓
Cases		1788 1/2 Cases of cans					1678 Cases of cans					1282 Cases of cans			
		1405 Cases of bottles					1204 Cases of bottles					753 Cases of bottles			
		3193 1/2					2882					2035			

All figures 24 Bottles or Cans to Case

Respondent's Exhibit 57-A/G

1242

FALSTAFF BEER

82)

1953

1954

1955

	24/12 Bot.	12/12 Can	24/12 Can	8/6 Can	1/2 Bbl.	24/12 Bot.	12/12 Can	24/12 Can	8/6 Can	1/2 Bbl.	24/12 Bot.	12/12 Can	24/12 Can	8/6 Can	1/2 Bbl.
Jan.	24	✓	✓	12	7	34	✓	12	✓	5	77	✓	✓	50	✓
Feb.	32	✓	✓	12	6	43	✓	32	✓	5	81	✓	✓	64	✓
Mar.	42	✓	✓	14	6	60	✓	38	✓	5	68	✓	✓	60	✓
Apr.	37	✓	✓	13	6	66	✓	32	✓	1	80	✓	✓	84	✓
May	43	✓	✓	24	9	73	✓	✓	46	✓	40	✓	✓	58	✓
June	43	✓	✓	29	9	93	✓	✓	44	✓	70	✓	✓	80	✓
July	35	✓	✓	18	8	109	✓	✓	76	✓	82	105	✓	8	✓
Aug.	45	✓	✓	30	9	95	✓	✓	76	✓	98	117	✓	2	✓
Sept.	43	✓	✓	20	8	99	✓	✓	52	✓	98	92	✓	4	✓
Oct.	39	✓	✓	16	7	102	✓	✓	58	✓	74	73	✓	✓	✓
Nov.	36	✓	✓	18	6	89	✓	✓	54	✓	48	53	✓	✓	✓
Dec.	41	✓	✓	22	7	90	✓	✓	52	✓	Up to and including Nov. 25th				
Total	460	✓	✓	228	88 1/2 Bbl.	947	✓	114	438	16 1/2 Bbl.	816	440	✓	416	✓
Cases		228 Cases of cans					572 Cases of cans					850 Cases of cans			
		460 Cases of bottles					947 Cases of bottles					816 Cases of bottles			
		688					1519					1666			

All figures 24 Bottles or Cans to Case

Respondent's Exhibit 57

1243

STAG BEER

1953

1954

1955

	24/12 Bot.	12/12 Can	24/12 Can	8/6 Can	½ Bbl.	24/12 Bot.	12/12 Can	24/12 Can	8/6 Can	½ Bbl.	24/12 Bot.	12/12 Can	24/12 Can	8/6 Can	½ Bbl.
Jan.	44	22½	✓	✓	✓	38	25	5	4	✓	47	46½	✓	✓	✓
Feb.	45	25½	1	✓	✓	50	✓	✓	2	✓	51	61	✓	✓	✓
Mar.	50	29½	✓	4	✓	42	39½	✓	2	✓	35	42½	✓	2	✓
Apr.	40	27	✓	4	✓	47	40	✓	4	✓	28	66	✓	6	✓
May	61	44½	✓	6	✓	58	49½	✓	✓	✓	54	91½	✓	4	✓
June	84	79	✓	2	✓	100	69½	✓	2	✓	51	75½	✓	2	✓
July	91	61½	✓	4	✓	83	69½	✓	2	✓	57	92½	✓	8	✓
Aug.	90	57½	10	2	✓	66	58½	✓	2	✓	61	79	✓	4	✓
Sept.	39	62	✓	✓	✓	45	50½	✓	4	✓	31	73½	✓	✓	✓
Oct.	35	29½	✓	2	✓	47	51½	✓	2	✓	28	48½	✓	✓	✓
Nov.	47	58½	✓	✓	✓	54	51½	✓	✓	✓	20	30	✓	✓	✓
Dec.	67	43½	✓	2	✓	52	26½	✓	✓	✓	Up to and including Nov. 25th				
Total	693	540½	10	26	✓	682	531½	5	24	✓	463	706½	✓	26	✓
Cases		576½	Cases of cans				560½	Cases of cans				732½	Cases of cans		
		693	Cases Bot.				682	" " Bot.				463	Cases of Bot.		
		1269½					1242½					1195½			

All figures 24 Bottles or Cans to Case

SCHLITZ

1953

1954

1955

	24/12 Bot.	12/12 Can	24/12 Can	8/6 Can	24/12 Bot.	12/12 Can	24/12 Can	8/6 Can	24/12 Bot.	12/12 Can	24/12 Can	8/6 Can	
Jan.				6				4				8	
Feb.				6				4				4	
Mar.				8				4				2	
Apr.				10				4				8	
May				12				6				12	
June				✓				14				10	
July		Brewery out		✓				12				10	
Aug.		on		✓				22				12	
Sept.		strike		✓				10				4	
Oct.				4				4				6	
Nov.				2				6				✓	
Dec.				4				6					
										Up to and including Nov. 25th			
Total)				52	Cases of Cans			96	Cases of Cans			76	Cases of Cans

All figures 24 cans or bottles to Case

Respondent's Exhibit 57

1244

Respondent's Exhibit 57

1245

BUDWEISER BEER

	1953					1954					1955				
	24/12 Bot.	12/12 Can	24/12 Can	8/6 Can	½ Bbl.	24/12 Bot.	12/12 Can	24/12 Can	8/6 Can	½ Bbl.	24/12 Bot.	12/12 Can	24/12 Can	8/6 Can	½ Bbl.
Jan.	30	✓	14	14	✓	29	20	✓	14	✓	33	52	✓	6	8
Feb.	28	✓	12	4	✓	34	22½	✓	8	✓	26	32	✓	4	7
Mar.	23	✓	✓	28	✓	42	29	✓	10	✓	31	36	✓	8	9
Apr.	33	✓	✓	16	✓	49	48½	✓	18	7	33	65	✓	4	13
May	43	✓	✓	44	✓	38	59	✓	10	9	42	86	✓	8	15
June	54	✓	✓	50	✓	40	75	✓	4	8	36	50	✓	16	16
July	62	29	✓	50	✓	52	52	10	10	10	31	74	✓	18	16
Aug.	33	25	✓	12	✓	34	60	9	6	7	42	76	✓	12	16
Sept.	50	43½	✓	4	✓	34	25	✓	34	8	33	34	✓	44	14
Oct.	34	34	✓	22	✓	40	57	✓	14	6	28	46	✓	2	12
Nov.	22	21½	✓	10	✓	30	42	✓	✓	7	26	44	✓	18	10
Dec.	37	34½	✓	10	✓	29	24	✓	8	7					
Total } Cases }	449	187½ 477½ 449 926½	26 Cases of cans Cases of bottles	264	✓	451	515 670 451 1121	19 Cases of cans Cases of bottles	136	69 ½ Bbl.	361	595 735 361 1096	✓ Cases of cans Cases of bottles	140	136 ½ Bbl.

All figures 24 Bottles or Cans to Case

Budweiser
Frieselbeck
Falsaff
Star
Schlitz

Budweiser
Frieselbeck
Falsaff
Star
Schlitz

Budweiser
Frieselbeck
Falsaff
Star
Schlitz

Budweiser
Frieselbeck
Falsaff
Star
Schlitz

PRICES 1

(36)

Respondent's Exhibit 57

B6)

PRICES PAID WHOLESALERS FOR 24--12-OZ. RETURNABLE BOTTLES

	1953	1954	1955	
Budweiser	\$3.10 per case	\$3.10 per case	\$3.10 per case	
Griesedieck	2.60 " "	2.60 " "	2.60 " "	
Falstaff	2.60 " "	2.60 " "	2.60 " "	\$2.62 after March 21
Stag	2.60 " "	2.60 " "	2.60 " "	
Schlitz	—	—	—	

PRICES PAID WHOLESALERS FOR 24--12 OZ. CANS

	1953	1954	1955
Budweiser	3.39 per case	\$3.39 per case	\$3.39—3.40 after Mar. 21
Griesedieck	3.12 " "	3.12 " "	3.12—3.14 " " "
Falstaff	3.15 " "	3.15 " "	3.15—3.17 " " "
Stag	3.12 " "	3.12 " "	3.12 —
Schlitz	3.39 " "	3.39 " "	3.39—3.40 " " "

PRICES RECEIVED FOR 6 PACK RETURNABLE BOTTLES

	1953	1954	1955
Budweiser	\$1.15 + Bottle dep. 2¢ each	\$1.15 + Bot. dep.	\$1.15 + Bot. dep.
Griesedieck	1.05 " "	1.05 " "	1.05 " "
Falstaff	1.05 " "	1.05 " "	1.05 " "
Stag	1.05 " "	1.05 " "	1.05 " "
Schlitz	—	—	—

PRICES RECEIVED FOR 6 PACK 12 OZ. CANS

	1953	1954	1955
Budweiser	\$1.15	\$1.15	\$1.15
Griesedieck	1.05	1.05	1.05
Falstaff	1.05	1.05	1.05
Stag	1.05	1.05	1.05
Schlitz	1.15	1.15	1.15

Respondent's Exhibits 57 and 58

PRICES OF BEER PER BOTTLE 12 OZ. FOR CONSUMPTION ON PREMISES

	1953	1954	1955
Budweiser	.25¢	.25¢	.25¢—.30 after Mar. 21
Griesedieck	.20¢	.20¢	.20¢—.25 after Mar. 21
Falstaff	.20¢	.20¢	.20¢—.25 " " "
Stag	.20¢	.20¢	.20¢—.25 " " "
Schlitz	—	—	— —

(837)

PRICE OF 12 OZ. CAN FOR CONSUMPTION ON PREMISES

	1953	1954	1955
Budweiser	.25¢	.25¢	.25¢—.30¢ after March 21
Griesedieck	.20¢	.20¢	.20¢—.25 " " "
Falstaff	.20¢	.20¢	.20¢—.25 " " "
Stag	.20¢	.20¢	.20¢—.25 " " "
Schlitz	.25¢	.25¢	.25¢—.30 " " "

Respondent's Exhibit 58

(838)

THE ALIBI—JOHN L. HENRY
501 Clark Ave.
Jefferson City, Mo.

Wholesaler: N. SCHEIDT
Jefferson City Mo.

1955 vs 1954
10 months

	1953		1954		1955 (Incl. 10 months)	
	Purchases	% Total	Purchases	% Total	% + — 1953	Purchases Total
Griesedieck	9,231.56	51.5	8,365.76	41.5	— 9.4	5,983.28
Falstaff	1,914.20	10.6	4,264.00	21.2	+ 120.0	4,832.42
Stag	3,598.92	20.1	3,520.40	17.5	— 2.2	3,487.64
*Schlitz	176.28	1.0	325.44	1.6	+ 84.6	258.40
Bud	3,008.93	16.8	3,669.40	18.2	+ 22.0	3,618.10
Total	17,929.89	100%	20,145.00	100%	+ 12.4	18,179.84

*On strike

	C O S T			C O N S U M E R P R I C E S					
	24-12 oz. Ret. Bottle	24-12 oz. Can	½'s On Premise Draught	O f f P r e m i s e			12 oz. Can		
				6	12	24	6	12	24
Griesedieck	2.60	3.12/3.14	20/25	1.05			1.05		
Falstaff	2.60/2.62	3.15/3.17	20/25	1.05			1.05		
Stag	2.60	3.12/3.12	20/25	1.05			1.05		
Schlitz	2.60	3.39/3.40	25/30	—			1.05		
Bud	3.1	3.39/3.40	25/30	1.15			1.15		

Respondent's Exhibit 62

ANCHOR LIQUORS
2525 N. Adams
Peoria, Ill.
Wombacher

G—thru March 8, 1952

HENRY—March 2, 1952 thru June 1954

Heller—June 1954

20¢ off per Case in 100 Cs. lots

	<i>G & G</i> 1950	<i>G & G</i> 1951	<i>G & G</i> <i>Jan. to</i> <i>Mar. 11</i> 1952	<i>McHenry</i> 1953	<i>McHenry</i> 1954	<i>Heller</i> 1955
a.	11.25	246.50	397.61	—	210.60	135.00
b.	91.50	255.20	169.25	326.80	161.88	82.85
c.	203.75	227.50	302.10	648.60	251.24	104.49
d.	196.25	313.45	358.13	323.90	326.11	301.59
e.	203.75	303.85	263.19	160.10	193.90	95.15
f.	358.75	389.50	626.41	335.80	506.46	464.31
g.	356.70	594.80	569.55	660.17	270.28	216.32
h.	309.95	544.55	327.55	321.70	396.86	199.07
i.	394.83	349.50	326.50	323.90	394.87	366.77
j.	195.00	314.35	400.30	81.15	258.49	147.70
k.	235.65	169.00	326.30	248.99	226.02	76.81
l.	186.00	376.56	325.55	324.94	—	—
	2,743.38	4,383.76	4,392.44	3,755.15	3,196.71	2,190.06
		3.0	2.8	2.4	2.2	
Gross Sales	98,311.27	144,436.55	155,665.34	154,909.22	142,840.75	

Griesedieck

% change 52-51 + .2

53-52 —14.5

54-53 —14.9

10 months 55-54 —28.8

Total Business

% change 52-51 — 7.8

53-52 — 0.5

54-53 — 7.8

10 Month Sales 118,161.02

10 months 55-54

10 months 54 2,970.69

55 2,113.25

Respondent's Exhibit 63

(846)

ANCHOR LIQUORS,**Peoria, Illinois***Gross Sales*

1953	\$154,909.22
1954	142,840.75
Percent of decline—7.8%	

Purchases of Griesedieck Brothers

1953	\$ 3,755.15
1954	3,196.71
Percent of decline 1954 over 1953—14.9%	

Purchase of Griesedieck Bros.

first 10 months 1954	\$ 2,970.69
----------------------	-------------

Purchases of Griesedieck Bros.

first 10 months 1955	\$ 2,113.25
Percent of decline 1955 over 1954—28.8%	

Respondent's Exhibit 64-A/H

Carthage, Missouri,
December 1, 1955.

Mr. H. F. Thompson,
319 South Garrison,
Carthage, Missouri.

Dear Mr. Thompson:

The following represents a computation of beers purchased by your company for the years 1953, 1954 and 1955 by months:

(847)

FALSTAFF

1953	<i>Returnable bottles</i>	<i>Cans</i>	<i>Total</i>
January	16	6	
February	15	18	
March	23	8	
April	10	13	
May	19	10	
June	41	50	
July	54	45	
August	32	35	
September	28	25	
October	30	40	
November	17	18	
December	15	34	
	<hr/> 300	<hr/> 302	602

Respondent's Exhibit 64

1954

January	14			24
February	17			21
March	34			47
April	39			40
May	41			46
June	67	62		76
July	56	62	1004	70
August	47		124	76
September	38		<hr/>	60
October	37		880	30
November	35			32
December	27			30

452

552 1004

Respondent's Exhibit 61

(848)

FALSTAFF—continued.

1955	Returnable bottles ¹	Cans
January	13	21
February	20	20
March	23	28
April	33	32
May	39	42
June	39	60
July	40	62
August	31	74
September	25	49
October	17	45
	280	433 713

STAG

1953	Returnable Bottles	Cans
January	None	None
February	None	3
March	None	3
April	1	9
May	None	10
June	None	85
July	None	48
August	None	15
September	None	27
October	None	16
November	None	15
December	None	10
	1	241 242

Respondent's Exhibit 64

1954

January	None	10
February	None	10
March	None	18
April	None	26
May	None	16
June	None	40
July	None	14
August	None	32
September	None	22
October	None	16
November	None	14
December	None	12

230 230

1955

January	None	12
February	None	18
March	None	14
		44

(849)

STAG continued.

1955	Returnable bottles	Cans	Total
		Fwd 44	
April	None	14	
May	None	26	
June	None	18	
July	None	24	
August	None	32	
September	None	16	
October	None	12	

186 186

Respondent's Exhibit 64

GRIESEDIECK

1953	Returnable bottles		Cans	
January	20		126	
February	18		112	
March	25		166	
April	22		124	
May	40		197	
June	53		510	
July	25		363	
August	36		310	
September	37		217	
October	30		193	
November	44		137	
December	37		110	
	<hr/>	387	<hr/>	2565 2952
1954				
January	21		140	
February	24		131	
March	24		178	
April	30		196	
May	26		180	
June	57		289	
July	48		299	
August	43		252	
September	47	38 2688	158	10 months
October	38	320 358	149	2330
November	23	<hr/>	169	
December	15	358 2330	151	
	<hr/>	396	<hr/>	2292 2688

Respondent's Exhibit 64

1955

January	12	182
February	14	124
March	18	139
April	19	196
May	28	268
June	37	220
	128	1129
(850)		

GRIESEDIECK—continued.

1955	Returnable bottles	Cans
	128	1129
July	27	218
August	29	206
September	27	151
October	23	122 10 months
	234	1826 2060

BUSCH-LAGER

1955	Returnable bottles	Cans
April	None	4
May	None	32
June	None	30
July	None	4
August	None	12
September	None	6
October	None	None

Respondent's Exhibit 64

SCHLITZ

1953	Returnable bottles		Cans
January	7		57
February	1		53
March	None		90
April	None		84
May	None		81
June	21		40
July	None		None
August	2		118
September	1		118
October	None		84
November	1		83
December	None		62
	33		870 903
1954			
January	1		64
February	1		64
March	1		84
April	None		96
May	4		132
June	None	1427	152
July	1	179	182
August	2	—	178
September	3	1248	158
October	4		121
November	2	90	89
December	None	89	88
	19	179	1408 1427

Respondent's Exhibit 64

(851)

SCHLITZ—continued.

1955	<i>Returnable bottles</i>	<i>Cans</i>
January	2	94
February	3	85
March	None	87
April	3	133
May	1	247
June	3	172
July	8	303
August	2	282
September	None	149
October	None	159
	<hr/> 22	<hr/> 1711 1733

PABST

1953	<i>Returnable bottles</i>	<i>Cans</i>
January	19	71
February	2	96
March	None	114
April	2	91
May	1	114
June	None	None
July	None	None
August	None	56
September	None	124
October	None	62
November	None	48
December	None	59
	<hr/> 24	<hr/> 835 859

Respondent's Exhibit 64

1954				
January	3		48	
February	1		42	
March	4		60	
April	2		62	
May	None		67	
June	4		110½	
July	3		88	
August	3		89	
September	5		71	
October	1		58	
November	None	809	46	
December	None	88	42	
	26	721		783 809

1955				
January	None		47	
February	None		34	
				81

(852)

PABST—continued

1955	Returnable bottles	Cans	
		81	
March	1	84	
April	2	97	
May	None	101	
June	None	119	
July	None	101	
August	1	138	
September	1	83	
October	None	43	
	5		847 852

Respondent's Exhibit 64

BUDWEISER

1953	<i>Returnable bottles</i>			<i>Cans</i>
January	3			43
February	2			39
March	5			53
April	4			68
May	3			61
June	14			113
July	30			36
August	10			36
September	9			82
October	4			51
November	6			64
December	8			70
	98			716 814
1954				
January	5			54
February	6			64
March	4			97
April	12			99
May	15			132
June	19			172
July	23			143
August	24			156
September	23			170
October	12			82
November	16	19	1459	64
December	3	128	147	64
	162	147	1312	1297 1459
1955				
January	10			68
February	4			68
March	4			42
April	7			135
May	11			188

Respondent's Exhibit 64

(853)

BUDWEISER—continued.

1955	Returnable bottles	Cans
	36	
June	14	140
July	19	202
August	15	219
September	4	167
October	6	102
	<hr/> 94	<hr/> 1331 1425

MILLERS HIGH LIFE

1953	Returnable bottles	Cans
January	None	25
February	2	39
March	2	36
April	2	44
May	None	74
June	None	9
July	None	None
August	5	33
September	9	35
October	8	41
November	6	25
December	4	27
	<hr/> 38	<hr/> 388 426

Respondent's Exhibit 64

1954

January	3		18
February	4		25
March	5		32
April	4		50
May	5		39
June	11		77
July	14		72
August	7		62
September	5		38
October	6		63
November	6	611	43
December	4	71	18

74

540

537

611

1955

January	4	33
February	3	16
March	3	36
April	4	25
May	6	48
June	5	70
July	3	56

Respondent's Exhibit 64

(854)

MILLERS HIGH LIFE—continued.

1955	Returnable bottles	Cans
	28	
August	5	61
September	5	38
October	6	38
	<hr/> 44	<hr/> 421 465

Trusting this covers the information you requested, I
am

Very truly yours,

Dolores Wiggins
Dolores Wiggins

Respondent's Exhibit 65-A/C

H. F. THOMPSON—CARTHAGE, MISSOURI

	1953	<i>Percentage Total Purchases</i>	1954		<i>10 months 1954</i>	<i>10 months 1955</i>	
Fastaff	602	8.9	1,004	12.3	880	713	9.6
Stag	242	3.6	230	2.7	204	186	2.5
G.B.	2,952	43.4	2,688	32.7	2,330	2,060	27.7
Schultz	903	13.3	1,427	17.3	1,248	1,733	23.3
Polst	859	12.6	809	9.8	721	852	11.5
Bellweiser	814	12.0	1,459	17.8	1,312	1,425	19.2
Müller Hi Life	426	6.2	611	7.4	540	465	6.2
	<u>6,798</u>	<u>100.0</u>	<u>8,228</u>	<u>100%</u>	<u>7,235</u>	<u>7,434</u>	<u>100%</u>
	+ 21%				+ 2.8		

Respondent's Exhibit 65

H. F. THOMPSON—Carthage, Missouri

	FALSTAFF			STAG			GRIESEDIECK			SCHLITZ			PABST		
	1953	1954	1955	1953	1954	1955	1953	1954	1955	1953	1954	1955	1953	1954	1955
January	22	38	34	0	10	12	146	161	194	64	65	96	90	51	47
February	33	38	40	3	10	18	130	155	158	54	65	88	98	43	34
March	31	81	51	3	18	14	191	202	157	90	85	87	114	64	85
April	23	79	65	10	26	14	146	226	215	84	96	136	93	64	99
May	29	87	81	10	16	26	237	206	296	81	136	248	115	67	101
June	91	143	99	85	40	18	563	346	257	61	152	175	—	114	119
July	99	126	102	48	14	24	388	347	245	—	183	311	—	91	101
August	67	123	105	15	32	32	346	295	235	120	180	284	56	92	139
Sept.	53	98	74	27	22	16	254	205	178	119	161	149	124	76	84
Oct.	70	67	62	16	16	12	223	187	145	84	125	159	62	59	43

Nov.	35	67		15	14		181	192	2330	84	91		48	46	
Dec.	49	57		10	12		147	166		62	88		59	42	
	602 es.	1004 es.	731 es.	242	230		2952	2688	2080	903	1427		859	809	

+ 667
54
59.9% over
→ 53
to be
exact

—89
decrease ←
1954 10 mo. —10.7
over 1955
1953 v.
10 mo. 1954
43% of
total beer
bought in '53
Last 8 months
of '54
a decrease
of
—126

H. F. THOMPSON—CARTHAGE, MISSOURI

	BUDWEISER			MILLER HIGH LIFE			TOTAL			
	1953	1954	1955	1953	1954	1955	1953	1954	10 months 1954	1955
January	46	59	78	25	21	37				
Feb.	41	70	72	41	29	19				
March	58	101	46	38	37	39				
April	72	111	142	46	54	29				
May	64	147	199	74	44	54				
June	127	191	154	9	88	75				
July	66	166	221	—	86	59				
August	46	180	224	38	69	66				
September	91	193	171	44	43	43				
October	55	94	108	49	69	44				
November	70	80		31	49					
December	78	67		31	22					
Total	814	1,459		426	611		6,798	8,228	7,235	7,434
		up						21%		up 2.8%
		79.2% increase						inc. over		inc. over
		54						1953		1954
		over								
		53								

Respondent's Exhibit 63

1967

Respondent's Exhibit 66

(858)

		1 9 5 2				
	<i>1/2 Bbls.</i>	<i>Pts.</i>	<i>Jr.</i>	<i>Cans</i>	<i>Qts.</i>	
Bud	502	88		121		26
Schlitz		73	74	104		20
Stag		1,080		411	169	150
Falstaff		237		93		30
Griesedieck		368		123		40

		1 9 5 3				
	<i>1/2 Bbls.</i>	<i>Pts.</i>	<i>Jr.</i>	<i>Cans</i>	<i>Qts.</i>	
Bud	422	82		150		22
Schlitz		73	85	135		20
Stag		1,328		440	131	
Falstaff		384		133		
Griesedieck		344		156		

		1 9 5 4				
	<i>1/2 Bbls.</i>	<i>Pts.</i>	<i>Jr.</i>	<i>Cans</i>	<i>Qts.</i>	
Bud	300	77		110		
Schlitz		42	64	90		
Stag		1,085		327	145	
Falstaff		476		287		
Griesedieck		192		87	Heller	

COOKIE BLAIR TAVERN

3101 So. Adams

Peoria, Ill.

Respondent's Exhibit 67

COOKIE BLAIR

3101 S. Adams

Peoria, Illinois

	1952		1953			1954		
	<i>Pur. in Cases</i>	<i>% of Total</i>	<i>Pur. in Cases</i>	<i>% Change Prev. Year</i>	<i>% of Total</i>	<i>Pur. in Cases</i>	<i>% Change Prev. Year</i>	<i>% of Total</i>
Badweiser	209	7.1	232	+ 11.	6.8	187	- 19.4	6.3
Schlitz	251	8.4	293	+ 16.7	8.5	196	- 33.0	6.6
Stag	1,660	56.4	1,809	+ 14.4	55.2	1,557	- 18.0	52.2
Falstaff	330	11.2	517	+ 56.6	15.	763	+ 47.6	25.5
Griesedieck	491	16.7	500	+ 1.8	14.5	279	- 44.2	9.4
TOTAL	2,941	100.0	3,441	+ 17.	100.0	2,982	- 13.3	100.0

(861) **Respondent's Exhibit 68-A/C**

FALSTAFF, 1953

	<i>Pt. Bottles</i>		<i>Cases</i>	
	<i>Cases</i>	<i>\$2.60 pr case</i>	<i>Cans</i>	<i>\$3.19 pr case</i>
Jan.	20	\$52.00	10	\$31.90
Feb.	15	39.00	11	35.09
Mar.	13	33.80	8	25.52
Apr.	15	39.00	5	15.95
May	21 ^{1/2}	54.60	6	19.14
June	23	59.80	5	15.95
July	35	91.00	10	31.90
Aug.	29	75.40	9	28.71
Sept.	30	78.00	9	28.71
Oct.	43	108.80	5	15.95
Nov.	33	85.80	2	6.38
Dec.	26	67.60	2	6.38

Selling Price

Bottles 20¢ — Cans 20¢

6 pk \$1.10

Respondent's Exhibit 68

(862)

FALSTAFF 1954

Pt. Bottles

	<i>Cases</i>	<i>\$2.60</i>	<i>Cases</i>	<i>\$3.19 Cans</i>
Jan.	29	\$75.40	3	\$ 9.54
Feb.	27	70.20	0	
March	18	46.80	4	12.72
April	28	72.80	9	28.71
May	18	46.80	10	31.90
June	27	70.20	14	44.66
July	25	65.00	18	57.42
Aug.	28	72.80	24	76.56
Sept.	17	44.20	17	54.23
Oct.	16	41.60	16	51.04
Nov.	13	33.80	12	38.28
Dec.	16	44.20	16	51.04

Selling Price

Bottles 20¢ — Cans 20¢

6 pk \$1.00

Respondent's Exhibit 68

(863)

FALSTAFF 1955

	<i>Pt. Bottles</i>			
	<i>Cases</i>	<i>\$2.60 per case</i>	<i>Cases Cans</i>	<i>\$3.19</i>
Jan.	15	\$39.00	16	\$51.04
Feb.	20	52.00	12	38.28
Mar.	12	31.20	16	51.04
Apr.	21	54.60	24	76.56
May	27	70.20	22	70.18
June	32	83.20	24	76.56
July	25	65.00	40	127.60
Aug.	29	75.40	38	121.22
Sept.	22	57.20	46	139.46
Oct.	18	46.80	28	89.32
Nov.	17	44.20	28	89.32

Selling price same as 1954

Respondent's Exhibit 69-A/C

(864)

BLUE RIBBON 1953

	<i>Pt. Bottles</i>	
	<i>Case</i>	<i>\$3.25 Case</i>
Jan.	1	\$3.25
Feb.	1	3.25
Mar.	2	6.50
Apr.	3	9.75
May	1	3.25
June	0	
July	0	
Aug.	9	29.75
Sept.	3	9.75
Oct.	2	6.50
Nov.	2	6.50
Dec.	0	

Bottles

Selling Price 25¢

Respondent's Exhibit 69

(865)

BLUE RIBBON 1954

	<i>Pt. Bottles</i>	
	<i>Cases</i>	<i>\$3.25</i>
Jan.	5	\$16.25
Feb.	3	9.75
Mar.	0	
Apr.	0	
May	0	
June	2	6.50
July	2	6.50
Aug.	2	6.50
Sept.	2	6.50
Oct.	2	6.50
Nov.		
Dec.		

Selling price same as 1953

Respondent's Exhibit 69

(866)

BLUE RIBBON 1955

	<i>Cases</i>	<i>\$3.25</i>
Jan.	5	\$13.00
Feb.	8	26.00
Mar.	11	35.75
Apr.	15	48.75
May	13	42.25
June	16	52.00
July	14	45.50
Aug.	18	58.50
Sept.	14	45.50
Oct.	12	39.00
Nov.	16	52.00

Selling price same as 1954

Respondent's Exhibit 70-A/C

(867)

S T A G 1 9 5 3

	<i>Pt. Bottles</i>		<i>Cans</i>	
	<i>Cases</i>	<i>\$2.60 per case</i>	<i>Cases</i>	<i>\$3.19</i>
Jan.	9	\$23.40	3	9.54
Feb.	21	54.60	0	
Mar.	13	33.80	1	3.19
Apr.	21	54.60	0	
May	8	20.80	2	6.38
June	17	44.20	3	12.80
July	30	78.00	8	25.60
Aug.	26	67.60	6	19.14
Sept.	31	80.60	5	15.95
Oct.	41	106.60	0	
Nov.	24	62.40	0	
Dec.	19		0	

Selling Price

Bottles 20¢ — Cans 20¢

6 pk. \$1.10

Respondent's Exhibit 70

(868)

S T A G 1 9 5 4

	<i>Pt. Bottles</i>			<i>\$3.19</i>
	<i>Cases</i>	<i>\$2.60</i>	<i>Cases</i>	<i>Cans</i>
Jan.	15	\$39.00	0	
Feb.	16	41.60	0	
Mar.	19	49.40	2	6.38
Apr.	16	41.60	4	12.72
May	15	39.00	0	
June	18	46.80	4	12.72
July	14	36.40	4	12.72
Aug.	36	93.60	12	38.18
Sept.	21	54.60	6	19.08
Oct.	12	31.20	8	25.45
Nov.	17	44.20	6	19.08
Dec.	14	36.40	6	19.08

Bottles 20¢ — Cans 20¢

6 pk. \$1.00

Respondent's Exhibit 70

(869)

S T A G 1 9 5 5

Pt. Bottles

		<i>\$2.60</i>	<i>Cases Cans</i>	<i>\$3.19</i>
	23	\$59.80	4	\$12.76
Feb.	21	54.60	6	19.14
Mar.	22	57.20	10	31.90
Apr.	16	41.60	20	63.80
May	17	44.20	14	44.66
June	13	33.80	14	44.66
July	14	36.40	16	51.04
Aug.	14	36.40	16	51.04
Sept.	15	39.00	14	44.66
Oct.	9	23.40	14	44.66
Nov.	7	18.20	16	51.04

Same as 1954

Respondent's Exhibit 71-A/D

(870)

BUDWEISER 1953**18th St. Bar, 1802 Main***Pt. Bottles*

	<i>Cases</i>	<i>\$3.25 per case</i>	<i>Cans</i>	<i>\$3.59 per case</i>
Jan.	17	\$55.25	2	\$ 7.18
Feb.	21	75.39	3	10.77
Mar.	18	58.50	4	14.36
Apr.	28	91.00	6	21.54
May	15	48.75	6	21.54
June	29	94.25	8	28.72
July	37	120.25	5	17.95
Aug.	19	61.65	5	17.95
Sept.	38	123.50	0	
Oct.	25	81.25	0	
Nov.	22	71.50	0	
Dec.	22	71.50		

Selling Price

Bottles 25¢ — Cans 25¢

6 pk. \$1.25

Respondent's Exhibit 71

(871)

18th St. Bar

BUDWEISER 1954

	<i>Cases</i>	<i>Pt. Bot. \$3.25</i>	<i>Cans</i>	<i>\$3.59</i>
Jan.	28	\$91.00	0	
Feb.	20	65.00	0	
Mar.	19	61.75	3	10.77
Apr.	27	87.75	2	7.18
May	22	71.50	6	21.54
June	39	126.75	6	21.54
July	29	94.25	2	7.18
Aug.	36	117.00	6	21.54
Sept.	19	61.75	6	21.54
Oct.	17	55.25	2	7.18
Nov.	23	74.75	6	21.54
Dec.	28	81.25	7	25.13

Selling Price

Bottles 25¢ — Cans 25¢

6 pk. \$1.25

Respondent's Exhibit 71

(872)

18th St. Bar

BUDWEISER 1955

		<i>Pt. Bottles</i>				
		<i>\$3.25</i>	<i>Cases</i>			
<i>Cases</i>		<i>pr Case</i>	<i>Cans</i>	<i>\$3.59</i>	<i>1½ bbl.</i>	<i>\$11.35</i>
Jan.	19	\$61.75	8	\$28.52		
Feb.	31	100.75	6	21.54		
Mar.	27	87.75	12	43.08	9	\$129.15
Apr.	49	159.25	14	53.26	12	172.20
May	51	165.75	16	57.44	11	157.85
June	42	136.50	12	43.08	12	172.20
July	27	87.75	20	71.80	11	157.85
Aug.	36	117.00	20	71.80	12	172.20
Sept.	32	104.00	16	57.44	8	114.80
Oct.	22	71.50	14	46.67	6	86.10
Nov.	36	117.00	12	43.08	11	157.85

Selling Price

Same as 1953

Respondent's Exhibit 71

(873)

18th St. Bar

B U S C H 1 9 5 5

	<i>\$3.19 pr Case</i>	
	<i>Bottles</i>	<i>Cases Cans</i>
Jan.		
Feb.		
Mar.		
Apr.	22	70.18
May	14	44.66
June	13	41.47
July	20	63.80
Aug.	24	76.56
Sept.	16	51.04
Oct.	10	31.90
Nov.	8	25.52

Respondent's Exhibit 74-A/C

(879)

MILLERS HIGH LIFE 1953

	<i>Pt. Bottles</i>	
	<i>Cases</i>	<i>\$3.25</i>
Jan.	6	\$19.50
Feb.	4	13.00
Mar.	4	13.00
Apr.	5	16.25
May	5	16.25
June	4	13.00
July	0	
Aug.	3	9.75
Sept.	3	9.75
Oct.	11	35.75
Nov.	5	16.25
Dec.	2	7.18

Selling Price

Bottles 25¢

Respondent's Exhibit 74

(880)

MILLERS HIGH LIFE 1954

	<i>Pt. Bottles</i>	
	<i>Cases</i>	<i>\$3.25 pr Case</i>
Jan.	2	\$ 6.50
Feb.	3	9.75
Mar.	4	13.00
Apr.	1	3.25
May	3	9.75
June	3	9.75
July	4	13.00
Aug.	10	32.50
Sept.	6	19.50
Oct.	4	13.00
Nov.	3	9.75
Dec.	3	9.75

Selling Price

Same as 1953

Respondent's Exhibit 74

(881)

MILLERS HIGH LIFE 1955

	<i>Case</i>	<i>Pt. Bottles</i> \$3.25
Jan.	5	\$16.25
Feb.	2	6.50
Mar.	3	9.75
Apr.	3	9.75
May	2	6.50
June	2	6.50
July	4	13.00
Aug.	3	9.75
Sept.	4	13.00
Oct.	2	6.50
Nov.	3	9.75

Selling Price

Same as 1953-1954

Respondent's Exhibit 75-A/C

(882)

MEUHLEBACH 1953

		<i>Pt. Bottles</i>			
				<i>Cases</i>	
	<i>Cases</i>	<i>\$2.50</i>	<i>Case</i>	<i>Cans</i>	<i>\$3.19</i>
Jan.				37	\$118.03
Feb.				31	97.70
Mar.				29	92.50
Apr.				46	146.74
May				26	82.94 <i>\$3.15</i>
June				45	141.75 <i>pr case</i>
July				47	148.05
Aug.				29	92.50
Sept.				31	95.70
Oct.	12	30.00		16	50.40
Nov.	12	30.00		4	12.60
Dec.	13	32.50		2	6.30

Selling Price

Bottles 20¢ — Cans 20¢

6 pk. \$1.00

Respondent's Exhibit 75

(883)

MEUHLEBACH 1954

	<i>Cases</i>	<i>\$2.50 per Case</i>	<i>Cases Cons</i>	<i>\$3.15</i>
Jan.	21	\$52.50	3	\$ 9.45
Feb.	14	35.00	2	6.30
Mar.	9	22.50	1	3.15
Apr.	0		18	56.70
May			14	44.10
June			30	94.50
July			27	85.05
Aug.			25	78.75
Sept.			11	34.65
Oct.			8	25.20
Nov.			10	31.50
Dec.			8	25.20

Selling Price

Same as 1953

Respondent's Exhibit 75

(884)

MEUHLEBACH 1955

	<i>Pt. Bottles</i>		<i>Cases Cans</i>	<i>\$2.15</i>
	<i>Cases</i>	<i>\$2.50 per Case</i>		
Jan.			8	\$25.20
Feb.			20	63.00
Mar.			6	18.90
Apr.			10	31.50
May			14	44.10
June	1	\$ 2.50	10	31.50
July	11	27.50		
Aug.	9	22.50		
Sept.	4	10.00		
Oct.	3	7.50		
Nov.	5	12.50		

Selling Price

Same as 1953

Respondent's Exhibit 76-A/C

(885)

18th St. Bar

S C H L I T Z 1 9 5 3

		\$3.25	<i>Cases</i> <i>Cans</i>	\$3.59	$\frac{1}{2}$ bbl.	<i>\$14.35</i> <i>Pr. bbl.</i>
Jan.	42	\$136.50	7	\$25.13	9	\$129.15
Feb.	24	78.00	10	35.90	8	114.80
Mar.	26	84.50	4	14.36	7	100.45
Apr.	27	87.25	6	21.54	8	114.80
May	17	55.25	8	26.00	6	86.10
June	27	87.75	6	15.90	9	129.15
July	8	26.00	0		9	129.15
Aug.	28	91.00	16	57.44	8	114.80
Sept.	18	58.50	6	15.90	10	143.50
Oct.	28	91.00	1	3.59	11	157.85
Nov.	17	55.25			8	114.80
Dec.	15	48.75			8	114.80

Selling Price

Bottles 25¢ — Cans 25¢

6 pk. \$1.25

Draught Beer 10¢ glass

Respondent's Exhibit 76

(886)

SCHLITZ 1954

 $1\frac{1}{2}$ bbl.

Jan.	23	\$74.75	0		8	\$114.80
Feb.	20	65.00	0		6	86.10
Mar.	14	45.50	2	7.18	7	100.47
Apr.	19	61.65	8	28.72	10	143.50
May	16	52.00	10	35.90	9	129.17
June	13	42.25	6	21.50	8	114.80
July	12	39.00	4	14.36	7	100.47
Aug.	14	45.50	10	35.90	11	157.87
Sept.	14	45.50	6	21.54	10	143.50
Oct.	10	32.50	6	21.54	7	100.47
Nov.	11	35.75	8	28.72	5	71.75
Dec.	7	22.75	4	16.36	6	86.10

Selling Price

Same as 1953

Respondent's Exhibit 76

(887)

S C H L I T Z 1 9 5 5

Pt. Bottles

		<i>Cases</i>	\$3.25		\$3.59 <i>Cans</i>	$\frac{1}{2}$ bbl.	
Jan.	10	\$32.50	6	\$21.54	5	\$71.75	
Feb.	11	35.75	2	7.18	5	71.75	
Mar.	8	26.00	4	14.36			
Apr.	22	71.50	6	21.54			
May	16	52.00	3	10.77			
June	24	78.00	4	14.36			
July	29	94.25	2	7.18			
Aug.	17	55.25	0				
Sept.	12	39.00	0				
Oct.	10	32.50	0				
Nov.	11	35.75	0				

Selling Price

Same as 1953-1954

(888)

Respondent's Exhibit 77-A/C

GREISIDIECK 1953

	<i>Pt. Bottles</i>			
	<i>Cases</i>	<i>\$2.60 per Case</i>	<i>Cases Cans</i>	<i>\$3.18</i>
Jan.	64	\$166.40	25	\$ 79.52
Feb.	56	145.60	15	47.52
Mar.	69	179.40	25	79.52
Apr.	40	164.00	46	146.32
May	56	145.60	21	66.80
June	60	156.00	48	152.64
July	60	156.00	70	222.76
Aug.	50	130.00	50	159.04
Sept.	79	206.40	58	184.50
Oct.	57	148.20	36	114.84
Nov.	61	158.60	20	63.80
Dec.	50	130.00	11	34.99

Selling Price

Bottles 20¢ — Cans 20¢

6 pk. \$1.10

1293

Respondent's Exhibit 77

(889)

GREISDIECK 1954

	<i>Pt. Bottles</i>		<i>Cases</i>	
	<i>Cases</i>	<i>\$2.60 per Case</i>	<i>Cans</i>	<i>\$3.19</i>
Jan.	61	\$158.60	18	\$ 57.26
Feb.	44	114.40	25	79.52
Mar.	53	137.80	15	47.72
Apr.	54	140.40	18	57.26
May	53	137.80	15	47.72
June	55	143.00	25	79.52
July	30	93.60	32	101.80
Aug.	55	143.00	36	114.52
Sept.	34	88.40	23	73.16
Oct.	36	93.60	21	66.99
Nov.	34	88.40	16	51.04
Dec.	21	54.60	20	63.80

Selling Price

Bottles 20¢ — Cans 20¢

6 pk. \$1.00

Respondent's Exhibit 77

(890)

GREISIDIECK 1955

	<i>Pt. Bottles</i>		<i>Cases</i>	
	<i>Cases</i>	<i>\$2.60 per Case</i>	<i>Cans</i>	<i>\$3.19</i>
Jan.	24	\$ 62.40	16	\$ 51.04
Feb.	29	75.40	15	47.85
Mar.	31	80.60	23	73.37
Apr.	35	91.00	17	54.23
May	47	122.20	25	79.75
June	32	83.20	25	79.75
July	33	85.80	32	101.80
Aug.	40	104.00	34	108.46
Sept.	34	88.40	28	89.32
Oct.	19	49.40	18	57.42
Nov.	32	83.20	18	57.42

Selling Price

Same as 1954

Respondent's Exhibit 78

(891)

RAY WILKS**Joplin, Mo.****Total Beer Purchases**

1953	\$9,423.90
1954	7,348.22

Percent decline 1954 from 1953-- 22%

**G-B Purchases by month
1953 and 1954**

<i>Month</i>	<i>1953</i>	<i>1954</i>	<i>% Decline</i>
Jan.	245.92	215.86	12.23
Feb.	193.12	193.92	
March	258.92	185.52	28.35
Apr.	310.32	197.66	36.30
May	212.40	185.52	12.65
June	308.69	222.52	27.91
July	378.76	195.40	48.41
Aug.	289.04	257.52	10.91
Sept.	390.90	161.56	58.67
Oct.	263.04	160.59	38.95
Nov.	222.40	139.44	37.30
Dec.	164.99	118.40	28.24
Total	3238.50	2233.91	31.02

Respondent's Exhibit 79-A/K

(892)

Richard E. Curran Jr. DBA

Jr's. Tavern

205 E. Wash. St.

Springfield, Ill.

Purchases—1953

<i>Date</i>	<i>Quantity</i>	<i>Size</i>	<i>Total Cost</i>
Millers— E & F Dist. Co.			
2-27-53	1 Case	48 Cans	7.12
“	1 “	24 “	3.09
4-17-53	1 “	24/12 Oz.	4.11
“	1 “	K. K.	7.12
10- 8-53	1 “	36/6 Oz.	3.95
“	1 “	K. K.	7.58
10- 9-53	1 “	“	7.12
12-21-53	1 “	“	7.58
Total			\$ 47.67

Pabst Blue Ribbon—
H. E. Maurer Dist. Co.

3-20-53	3 Cases	7 Oz.	12.33
5-14-53	1 “		3.77
5- 7-53	2 “	7 Oz.	8.22
“	2 “	Cans	7.12
6- 5-53	2 “	7 Oz.	8.22
9- 4-53	2 “	Cans	7.12
11- 9-53	1 “	8/6 Cans	7.58
12-11-53	2 “	“	15.16
Total			\$ 69.52

Respondent's Exhibit 79

Griesedieck—W. F. McHenry & Co.

<i>Date</i>	<i>Quantity</i>		<i>Size</i>	<i>Total Cost</i>
1- 2-53	8 Cases		12 Oz.	26.16
1- 9-53	5 "		"	16.35
1-16-53	6 "		"	19.62
1-30-53	5 "	—	"	16.35
1-23-53	5 "	29	"	16.35
2- 6-53	8 "		"	26.16
2-13-53	8 "		"	26.16
2-20-53	8 "	—	"	26.16
2-27-53	8 "	32	"	26.16
3-12-53	10 "		"	32.70
3- 6-53	5 "		"	16.35
3-19-53	10 "	—	"	32.70
3-26-53	15 "	40	"	49.05
4-10-53	5 "		"	16.35
"	5 "		Cans	16.20
4-24-53	10 "		12 Oz.	32.70
"	3 "		Cans	9.72
4-17-53	10 "		12 Oz.	32.70

(893)

4-30-53	5 Cases	—	12 Oz	16.35
"	5 "	43	Cans	16.20
5-28-53	5 "		12 Oz.	16.35
5-21-53	10 "		"	32.70
5-14-53	6 "	—	"	19.62
5- 7-53	10 "	31	"	32.70
6- 5-53	5 "		"	16.35
"	1 "		32 Oz.	3.51
"	5 "		Cans	16.20
6-26-53	5 "		"	16.20
6-19-53	10 "	—	12 Oz.	32.70
"	1 "	27	32 Oz.	3.51
7- 1-53	10 "		12 Oz.	32.70

Respondent's Exhibit 79

<i>Date</i>	<i>Quantity</i>		<i>Size</i>	<i>Total Cost</i>
7-30-53	5 "		"	16.35
"	5 "		Cans	16.20
7-17-53	5 "		12 Oz.	16.35
7- 9-53	5 "		12 Oz.	16.35
"	2 "		32 Oz.	7.02
"	5 "		Cans	16.20
7-23-53	10 "		12 Oz.	32.70
"	2 "	—	Cans	6.48
7- 3-53	5 "	54	"	16.20
8- 6-53	5 "		12 Oz.	16.35
8-13-53	5 "		"	16.35
"	2 "		Cans	6.48
8-20-53	5 "		12 Oz.	16.35
"	3 "	—	Cans	9.72
8-27-53	8 "	28	12 Oz.	26.16
9-17-53	8 "		"	26.16
9-10-53	5 "		"	16.35
9- 3-53	8 "		"	26.16
"	2 "		Cans	6.48
9-24-53	5 "	—	12 Oz.	16.35
"	2 "	30	Cans	6.48
10- 1-53	5 "		12 Oz.	16.35
10-29-53	8 "		"	26.16
10- 8-53	8 "		"	26.16
10-15-53	8 "	—	"	26.16
10-22-53	5 "	34	"	16.35
11-12-53	8 "		"	26.16
11-19-53	8 "		"	26.16
11- 5-53	8 "	—	"	26.16
11-25-53	8 "	32	"	26.16
12-17-53	10 "		"	32.70
12-23-53	7 "		"	22.80
"	6 "		Cans	9.72

Respondent's Exhibit 79

(894)

<i>Date</i>	<i>Quantity</i>	<i>Size</i>	<i>Total Cost</i>
12- 3-53	8 Cases	12 oz.	26.16
" "	2 "	6 Pk.	12.96
12-30-53	5 "	12 Oz.	16.35
12- 8-53	10 "	— "	32.70
"	2 "	50 6 Pk.	12.96
Total			\$1,408.53

Gold Top—Reisch Brewing Co.

1- 2-53	2 Halves	Draught	24.00
1- 5-53	2 "	"	24.00
"	5 Cases	2 Doz.	14.35
1- 9-53	2 Halves	Draught	24.00
"	1 "	"	12.00
1-12-53	1 "	"	12.00
1-16-53	2 "	"	24.00
1-19-53	2 "	"	24.00
1-24-53	1 "	"	12.00
1-25-53	1 "	"	12.00
1-26-53	2 "	"	24.00
"	3 Cases	2 Doz.	8.61
1-30-53	1 Halves	Draught	12.00
1-23-53	2 "	"	24.00
2- 2-53	2 "	"	24.00
2- 5-53	2 "	"	24.00
2- 6-53	1 "	"	12.00
2- 9-53	1 "	"	12.00
"	3 Cases	2 Doz.	8.61
2-13-53	2 Halves	Draught	24.00
2-16-53	1 "	"	12.00
"	4 Cases	2 Doz.	11.48
2-23-53	2 Halves	Draught	24.00
"	4 Cases	1 Doz.	6.00
"	2 "	2 Doz.	5.74

Respondent's Exhibit 79

<i>Date</i>	<i>Quantity</i>	<i>Size</i>	<i>Total Cost</i>
2-25-53	1 Halves	Draught	12.00
2-20-53	2 "	"	24.00
2-27-53	1 "	"	12.00
3-13-53	2 "	"	24.00
3- 9-53	2 "	"	24.00
"	2 Cases	2 Doz.	5.74
3- 6-53	2 Halves	Draught	24.00
3-16-53	2 "	"	24.00
"	3 Cases	2 Doz.	8.61
3-18-53	3 Halves	Draught	36.00
"	3 Cases	2 Doz.	8.61

(895)

3-23-53	2 Halves	Draught	24.00
3-27-53	2 "	"	24.00
3-30-53	1 Halves	"	12.00
3- 2-53	1 "	"	12.00
4-10-53	2 "	"	24.00
4-13-53	2 "	"	24.00
"	10 Cases	2 Doz.	28.70
4-24-53	2 Halves	Draught	24.00
4-27-53	3 "	"	36.00
"	5 Cases	2 Doz.	14.35
4-20-53	2 Halves	Draught	24.00
4-17-53	2 "	"	24.00
4- 3-53	2 "	"	24.00
4- 6-53	2 "	"	24.00
5- 1-53	2 "	"	24.00
5- 4-53	1 "	"	12.00
5- 6-53	2 "	"	24.00
5- 8-53	2 "	"	24.00
5-11-53	2 "	"	24.00
5-15-53	2 "	"	24.00
5-18-53	2 "	"	24.00
5-22-53	2 "	"	24.00
5-29-53	2 "	"	24.00

Respondent's Exhibit 79

<i>Date</i>	<i>Quantity</i>	<i>Size</i>	<i>Total Cost</i>
5-25-53	2 "	"	24.00
6-19-53	2 "	"	24.00
6-29-53	2 "	"	24.00
6- 1-53	2 "	"	24.00
"	5 Cases	2 Doz.	14.35
6- 5-53	2 Halves	Draught	24.00
6-28-53	1 "	"	12.00
6-26-53	2 "	"	24.00
6-22-53	2 "	"	24.00
"	5 Cases	2 Doz.	14.35
6-15-53	3 Halves	Draught	36.00
6-12-53	1 "	"	12.00
6-11-53	2 "	"	24.00
7-27-53	2 "	"	24.00
"	5 Cases	2 Doz.	14.35
7-31-53	2 Halves	Draught	24.00
7-20-53	1 "	"	12.00
"	4 Cases	1 Doz.	6.00
7-24-53	2 Halves	Draught	24.00
7- 9-53	3 "	"	36.00
7-17-53	2 "	"	24.00
"	5 Cases	2 Doz.	14.35
7-18-53	2 Halves	Draught	24.00
(896)			
7- 6-53	2 Halves	Draught	24.00
"	5 Cases	"	14.35
7- 3-53	2 Halves	Draught	24.00
8- 3-53	1 "	"	12.00
8- 7-53	1 "	"	12.00
8-19-53	2 "	"	24.00
"	5 Cases	2 Doz.	14.35
8-14-53	2 Halves	Draught	24.00
8-17-53	2 "	"	24.00
8-21-53	2 "	"	24.00

Respondent's Exhibit 79

<i>Date</i>	<i>Quantity</i>	<i>Size</i>	<i>Total Cost</i>
8-28-53	2 "	"	24.00
8-31-53	2 "	"	24.00
8-24-53	1 "	"	12.00
"	3 Cases	2 Doz.	8.61
9- 9-53	1 Halves	Draught	12.00
"	5 Cases	2 Doz.	14.35
9-28-53	1 Halves	Draught	12.00
"	5 Cases	2 Doz.	14.35
9-25-53	1 Halves	Draught	12.00
9-21-53	2 "	"	24.00
9-18-53	2 "	"	24.00
9-14-53	1 "	"	12.00
9-11-53	1 "	"	12.00
9- 4-53	2 "	"	24.00
10- 2-53	1 "	"	12.00
10- 5-53	3 "	"	36.00
10- 9-53	1 "	"	12.00
10-12-53	2 "	"	24.00
10-16-53	1 "	"	12.00
10-19-53	1 "	"	12.00
"	5 Cases	2 Doz.	14.35
10-26-53	1 Halves	Draught	12.00
10-23-53	2 "	"	24.00
10-30-53	1 "	"	12.00
11- 5-53	2 "	"	24.00
11- 6-53	1 "	"	12.00
"	5 Cases	2 Doz.	14.35
11- 9-53	1 Halves	Draught	12.00
11-30-53	2 "	"	24.00
"	5 Cases	2 Doz.	14.35
11-23-53	2 Halves	Draught	24.00
11-20-53	1 "	"	12.00
11-16-53	1 "	"	12.00
"	5 Cases	2 Doz.	14.35
11-13-53	2 Halves	Draught	24.00
12-11-53	1 "	"	12.00

Respondent's Exhibit 79

(897)

<i>Date</i>	<i>Quantity</i>	<i>Size</i>	<i>Total Cost</i>
12-18-53	2 Halves	Draught	24.00
12-21-53	1 "	"	12.00
"	5 Cases	2 Doz.	14.35
12-14-53	1 Halves	Draught	12.00
"	3 Cases	2 Doz.	8.61
12-28-53	1 Halves		12.00
12-31-53	1 "		12.00
12-24-53	1 "		12.00
12- 4-53	1 "		12.00
12- 9-53	2 "		24.00
Total			\$2,562.57

Blatz—Stelte Dist. Co.

2-25-53	2 Cases	36/7 Oz.	8.30
Total			\$ 8.30

Stag—Stag Sales Co.

1- 8-53	3 Cases	24 Cans	9.72
"	2 "	7 Oz.	7.24
1-26-53	5 "	10 Bottles	16.35
2-26-53	5 "	"	16.35
2-20-53	5 "	"	16.35
2-12-53	4 "	"	13.08
2- 6-53	3 "	"	9.81
"	2 "	19 24 Cans	6.48
3-27-53	5 "	Bottles	16.35
"	1 "	8/6	6.48
3-19-53	5 "	Bottles	16.35
3- 6-53	2 "	8/6	12.96

Respondent's Exhibit 79

<i>Date</i>	<i>Quantity</i>	<i>Size</i>	<i>Total Cost</i>
3-11-53	5 " 18	Bottles	16.35
4-30-53	6 " "	"	19.62
4- 9-53	5 " "	"	16.35
"	1 " "	8/6	6.48
4-16-53	5 " —	Bottles	16.35
4-23-53	2 " 19	8/6	12.96
5-21-53	6 " —	Bottles	19.62
5- 7-53	6 " 12	"	19.62
6-25-53	5 " "	"	16.35
6-19-53	5 " "	"	16.35
6- 4-53	5 " —	"	16.35
"	2 " 17	8/6	12.96
7-17-53	5 " "	Bottles	16.35

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7-17-53	1 Cases	8/6	6.48
7- 8-53	2 " —	"	12.96
7-22-53	5 " 13	Bottles	16.35
8-26-53	5 " 5	"	16.35
9-16-53	5 " "	"	16.35
9-30-53	5 " "	"	16.35
9- 1-53	5 " —	"	16.35
"	2 " 17	8/6	12.96
10-14-53	5 " "	Bottles	16.35
10-21-53	5 " "	"	16.35
"	1 " —	8/6	6.48
10-28-53	2 " 13	"	12.96
11- 9-53	8 " —	Bottles	26.16
11-25-53	8 " 16	"	26.16
12- 6-53	5 " "	"	16.35
12-10-53	10 " "	"	32.70
12- 2-53	2 " —	8/6	12.96
12-23-53	5 " 22	Bottles	16.35

Total

\$ 650.20

Respondent's Exhibit 79

Falstaff—Starr Bros. Inc.

<i>Date</i>	<i>Quantity</i>		<i>Size</i>	<i>Total Cost</i>
1-30-53	1 Case	—	8/6	6.48
1- 8-53	4 “	5	Bottles	13.08
2-20-53	4 “	—	“	13.08
2- 6-53	4 “	8	“	13.08
		—		
3-20-53	4 “	4	“	13.08
		—		
4-10-53	5 “	5	“	16.35
		—		
5-15-53	4 “	4	“	13.08
6- 5-53	4 “	—	“	13.08
“	1 “	5	8/6	6.48
		—		
7- 3-53	4 “	4	Bottles	13.08
8-21-53	4 “		“	13.08
9-18-53	4 “		“	13.08
11-20-53	4 “		“	13.08
12-24-53	4 “		“	13.08
“	1 “		8/6	6.48
Total				\$ 179.67

(899)

Schlitz—Shelton Dist. Co.

1-22-53	3 Cases	36/7	12.45
1-15-53	5 “	24/12	20.55
1- 2-53	4 “	36/7	16.60
1-29-53	2 “	24/12	8.22
“	1 “	8/6	7.12
“	2 “	36/7	8.30
2-23-53	5 “	24/12	20.55
2-16-53	1 “	8/6	7.12

Respondent's Exhibit 79

<i>Date</i>	<i>Quantity</i>	<i>Size</i>	<i>Total Cost</i>
2-13-53	4 "	36/7	16.60
2- 9-53 ¹	5 "	24/12	20.55
3-11-53	1 "	8/6	7.12
"	4 "	36/7	16.60
3-27-53	5 "	24/12	20.55
3-16-53	4 "	24/12	16.44
"	5 "	36/7	20.75
3-12-53	4 "	24/12	16.44
"	3 "	36/7	12.45
4-30-53	5 "	24/12	20.55
4- 8-53	1 "	8/6	7.12
4-13-53	4 "	24/12	16.44
"	8 "	36/7	33.20
4-16-53	1 "	8/6	7.12
4-20-53	4 "	36/7	16.60
5- 6-53	3 "	24/12	12.33
"	1 "	8/6	7.12
"	3 "	36/7	12.45
5-20-53	3 "	24/12	12.33
"	1 "	8/6	7.12
"	5 "	36/7	20.75
6-15-53	3 "	24/12	12.33
"	4 "	36/7	16.60
8-26-53	3 "	24/12	12.33
"	1 "	8/6	7.12
8-19-53	3 "	24/12	12.33
"	1 "	8/6	7.12
"	4 "	36/7	16.60
8- 7-53	4 "	24/12	16.44
"	4 "	36/7	16.60
9-14-53	3 "	24/12	12.33
"	3 "	36/7	12.45
10-22-53	1 "	8/6	7.58
"	4 "	36/7	17.56
10-28-53	3 "	24/12	12.99
"	1 "	8/6	7.58

Respondent's Exhibit 79

<i>Date</i>	<i>Quantity</i>	<i>Size</i>	<i>Total Cost</i>
10- 1-53	4 "	24/12	16.44
(900)			
10- 1-53	3 Cases	36/7	12.45
10-14-53	3 "	24/12	12.99
"	1 "	8/6	7.58
"	4 "	36/7	17.56
11- 5-53	4 "	"	17.56
11-12-53	4 "	24/12	17.32
"	3 "	36/7	13.17
11-25-53	3 "	24/12	12.99
"	4 "	36/7	17.56
12-28-53	3 "	24/12	12.99
"	3 "	36/7	13.17
12-16-53	3 "	24/12	12.99
"	4 "	36/7	17.56
12- 4-53	3 "	24/12	12.99
"	4 "	36/7	17.56
Total			\$ 842.38

Budweiser—Ernest L. Schafer & Son

1- 2-53	5 Cases	Jr.	20.75
1-15-53	4 "	24/12	16.44
"	1 "	8/6	7.12
1-21-53	5 "	Jr.	20.75
2-23-53	5 "	24/12	20.55
"	3 "	Jr.	12.45
2-13-53	4 "	"	16.60
2- 5-53	4 "	"	16.60
"	3 "	24/12	12.33
3- 5-53	1 "	8/6	7.12
"	4 "	Jr.	16.60
3-17-53	7 "	"	29.05

Respondent's Exhibit 79

<i>Date</i>	<i>Quantity</i>	<i>Size</i>	<i>Total Cost</i>
3-26-53	5 "	24/12	20.55
4-24-53	4 "	"	16.44
"	5 "	Jr.	20.75
4- 9-53	4 "	24/12	16.44
"	5 "	Jr.	20.75
4-15-53	2 "	8/6	14.24
"	4 "	Jr.	16.60
5-29-53	3 "	"	12.45
5-28-53	3 "	24/12	12.33
"	2 "	Jr.	8.30
5- 7-53	3 "	24/12	12.33
"	2 "	8/6	14.24
"	6 "	Jr.	24.90
6-24-53	1 "	12/12 Cans	3.56

(901)

6-24-53	2 Cases	8/6	14.24
6-18-53	2 "	24/12	8.22
"	1 "	8/6	7.12
"	5 "	Jr.	20.75
6- 4-53	2 "	24/12	8.22
"	1 "	8/6	7.12
"	2 "	12/12 Cans	3.56
7- 3-53	5 "	24/12 "	17.80
7- 9-53	3 "	24/12	12.33
"	5 "	Jr.	20.75
7-24-53	5 "	24/12	20.55
"	1 "	8/6	7.12
"	5 "	Jr.	20.75
8- 7-53	5 "	24/12	20.55
"	5 "	Jr.	20.75
8-13-53	2 "	8/6	14.24
8-21-53	4 "	24/12	16.44
"	5 "	24/12 Cans	17.80
"	4 "	Jr.	16.60

Respondent's Exhibit 79

<i>Date</i>	<i>Quantity</i>	<i>Size</i>	<i>Total Cost</i>
9- 9-53	3 "	24/12	12.33
"	4 "	36/7	16.60
9-28-53	7 "	"	29.05
10-15-53	4 "	24/12	17.32
"	6 "	36/7	26.34
"	6 "	12/12 Cans	11.37
"	1 "	48/12 "	7.58
10-23-53	2 "	24/12	8.66
"	5 "	36/7	21.95
"	1 "	48/12 Cans	7.58
10-29-53	4 "	24/12	17.32
10- 7-53	4 "	"	17.32
"	6 "	36/7	26.34
"	1 "	48/12	7.58
11- 5-53	5 "	36/7	21.95
"	1 "	48/12 Cans	7.58
11-16-53	4 "	24/12	17.32
"	6 "	36/7	26.34
"	1 "	48/12 Cans	7.58
11-25-53	5 "	24/12	21.65
"	2 "	36/7	8.78
"	2 "	48/12 Cans	15.16
12- 3-53	5 "	24/12	21.65
"	2 "	48/12 Cans	15.16
12-17-53	5 "	24/12	21.65
"	3 "	36/7	13.17
(902)			
12-17-53	2 Cases	48/12 Cans	15.16
12-28-53	1 "	"	7.58
12-11-53	2 "	24/12	8.66
"	7 "	36/7	30.73
12-23-53	5 "	24/12	21.65
"	4 "	36/7	17.56
Total			\$1,211.82

Respondent's Exhibit 80-A/J

(903)

Richard E. Curren Jr. DBA

Jr's. Tavern

205 E. Wash. Street

Springfield, Ill.

Purchases—1954

<i>Date</i>	<i>Quantity</i>	<i>Size</i>	<i>Total Cost</i>
Miller's—E & F Dist. Co.			
5-13-54	1 Case	K. K. (48)	7.58
10-28-54	1 "	36 6 Oz.	3.95
Total			\$ 11.53

Pabst Blue Ribbon—

H. E. Maurer Dist. Co.

2- 5-54	1 Case	8 6 Can	7.58
3-21-54	2 "	"	15.16
5-10-54	3 "	7 Oz.	13.05
5-24-54	1 "	8 6 Can	7.58
7-19-54	3 "	7 Oz.	13.05
8- 3-54	1 "	8 6 Can	7.58
9-20-54	1 "	"	7.58
Total			\$ 71.58

Griesedieck—W. F. McHenry & Co.

1-21-54	5 Case	12 Oz.	16.35
"	4 " Cans	12-12's	6.48

Respondent's Exhibit 89

<i>Date</i>	<i>Quantity</i>		<i>Size</i>	<i>Total Cost</i>
1- 7-54	10 "		12 Oz.	32.70
"	2 "		24's	6.48
1-14-54	5 "	—	12 Oz.	16.35
1-28-54	10 "	36	"	32.70
2- 5-54	5 "		"	16.35
2-11-54	5 "		"	16.35
"	2 "		6 Pk's.	12.96
2-18-54	7 "		12 Oz.	22.89
"	1 "	—	6 Pk's	6.48
2-25-54	10 "	30	12 Oz.	32.70
3- 3-54	10 "		"	32.70
"	1 "		6 Pk's.	6.48
3-11-54	10 "		12 Oz.	32.70
3-18-54	10 "		"	32.70
"	2 "	—	6 Pk's	12.96
3-25-54	10 "	43	12 Oz.	32.70
4- 1-54	5 "		"	16.35
"	2 "		6 Pk's	12.96
4- 8-54	10 "		12 Oz.	32.70
4-15-54	5 "		"	16.35
4-22-54	5 "		"	16.35
"	1 "	—	6 Pk's	6.48
4-29-54	5 "	33	12 Oz.	16.35

(904)

5- 6-54	10 Case		12 Oz.	32.70
"	3 "		6 Pk's	19.44
5-13-54	5 "		12 Oz.	16.35
5-20-54	10 "		"	32.70
5-27-54	1 "		32 Oz.	3.51
"	8 "	—	12 Oz.	26.16
"	2 "	39	6 Pk's	12.96
6- 3-54	7 "		12 Oz.	22.89
6-10-54	8 "		"	26.16
6-17-54	10 "		"	32.70
"	1 "		6 Pk's	6.48

Respondent's Exhibit 80

<i>Date</i>	<i>Quantity</i>		<i>Size</i>	<i>Total Cost</i>
6-22-54	1	"	"	6.48
"	10	"	12 Oz.	32.70
6-25-54	1	"	6 Pk's	6.48
6-30-54	10	"	48 12 Oz.	32.70
7- 8-54	10	"	"	32.70
7-15-54	10	"	"	32.70
7-22-54	7	"	"	22.89
7-29-54	10	"	"	32.70
"	1	"	38 6 Pk's	6.48
8- 6-54	5	"	12 Oz.	16.35
"	2	"	6 Pk's	12.96
8-12-54	10	"	12 Oz.	32.70
8-19-54	9	"	"	29.43
8-26-54	5	"	31 "	16.35
9- 2-54	5	"	"	16.35
9- 9-54	1	"	6 Pk's	6.48
"	5	"	12 Oz.	16.35
9-16-54	5	"	"	16.35
9-23-54	5	"	"	16.35
9-30-54	5	"	"	16.35
"	1	"	27 6 Pk's	6.48
10- 4-54	10	"	12 Oz.	32.70
"	2	"	6 Pk's	12.96
10-14-54	10	"	12 Oz.	32.70
10-21-54	10	"	"	32.70
"	2	"	6 Pk's	12.96
10-28-54	5	"	39 12 Oz.	16.35
11- 4-54	10	"	"	32.70
11-12-54	5	"	"	16.35
11-17-54	5	"	"	16.35
11-24-54	2	"	22 6 Pk's	12.96
12- 2-54	5	"	12 Oz.	16.35
12- 9-54	5	"	"	16.35
12-23-54	5	"	"	16.35
12-30-54	10	"	25 "	32.70
Total				\$1,427.43

Respondent's Exhibit 80

(905)

Gold Top—Reisch Brewing Co.

<i>Date</i>	<i>Quantity</i>	<i>Size</i>	<i>Total Cost</i>
1- 4-54	2 Halves	Draught	24.00
“	5 Cases	2 Doz.	14.35
1- 8-54	1 Halves	Draught	12.00
1-11-54	2 “	“	24.00
1-15-54	1 “	“	12.00
1-18-54	1 “	“	12.00
1-22-54	1 “	“	12.00
1-25-54	2 “	“	24.00
“	5 Cases	2 Doz.	14.35
1-29-54	1 Halves	Draught	12.00
2- 1-54	2 “	“	24.00
2- 5-54	1 “	“	12.00
2- 8-54	2 “	“	24.00
2-12-54	1 “	“	12.00
2-19-54	1 “	“	12.00
2-18-54	2 “	“	24.00
“	3 Cases	2 Doz.	8.61
2-22-54	1 Halves	Draught	12.00
“	5 Cases	2 Doz.	14.35
2-26-54	1 Halves	Draught	12.00
3- 3-54	1 “	“	12.00
3- 4-54	2 “	“	24.00
3- 8-54	1 “	“	12.00
3-12-54	1 “	“	12.00
3-15-54	1 “	“	12.00
“	5 Cases	2 Doz.	14.35
3-19-54	2 Halves	Draught	24.00
3-22-54	1 “	“	12.00
3-24-54	1 “	“	12.00
3-25-54	1 “	“	12.00
3-29-54	1 “	“	12.00
4- 2-54	1 “	“	12.00
4- 5-54	5 Cases	2 Doz.	14.35
4- 9-54	1 Halves	Draught	12.00

Respondent's Exhibit 80

<i>Date</i>	<i>Quantity</i>	<i>Size</i>	<i>Total Cost</i>
4-12-54	1 "	"	12.00
4-16-54	2 "	"	24.00
4-19-54	5 Cases	2 Doz.	14.35
4-26-54	5 "	"	14.35
5- 1-54	10 "	"	28.70
5- 7-54	5 "	"	14.35
5-17-54	5 "	"	14.35
5-24-54	5 "	"	14.35
6- 7-54	4 "	1 Doz.	6.00
6-18-54	5 "	2 Doz.	14.35
7- 2-54	5 "	"	14.35

(906)

7-12-54	5 Cases	2 Doz.	14.35
7-19-54	5 "	"	14.35
7-30-54	5 "	"	14.35
8- 6-54	5 "	"	14.35
8-11-54	5 "	"	14.35
8-20-54	4 "	1 Doz.	6.00
"	5 "	2 Doz.	14.35
8-27-54	5 "	"	14.35
9- 3-54	5 "	"	14.35
9-10-54	5 "	"	14.35
9-20-54	5 "	"	14.35
9-29-54	5 "	"	14.35
10- 1-54	3 "	"	8.61
10- 4-54	5 "	"	11.35
10-11-54	5 "	"	14.35
10-15-54	4 "	"	11.48
10-18-54	10 "	"	28.70
10-29-54	4 "	"	11.48
11- 1-54	4 "	"	11.48
11-12-54	5 "	"	14.35
11-19-54	5 "	"	14.35
11-26-54	5 "	"	14.35
12- 3-54	5 "	"	14.35

Respondent's Exhibit 80

<i>Date</i>	<i>Quantity</i>	<i>Size</i>	<i>Total Cost</i>
12- 6-54	4 "	"	11.48
12-10-54	5 "	"	14.35
12-20-54	5 "	"	14.35
12-17-54	5 "	"	14.35
Total			\$1,128.74

Falstaff—Starr Bros. Inc.

1-28-54	4 Cases	Pts.	13.08
2-17-54	4 "	"	13.08
2-26-54	4 "	"	13.08
3-12-54	3 "	"	9.81
3-24-54	4 "	"	13.08
4- 8-54	4 "	"	13.08
5-13-54	4 "	"	13.08
"	1 "	8/6 Cans	6.48
5-29-54	4 "	Pts.	13.08
"	1 "	8/6 Cans	6.48
6- 9-54	4 "	Pts.	13.08
6-22-54	4 "	"	13.08
6-30-54	4 "	"	13.08
7-18-54	4 "	"	13.08

(967)

8-11-54	4 Cases	Pts.	13.08
8-25-54	4 "	"	13.08
"	1 "	8/6 Cans	6.48
9- 1-54	4 "	Pts.	13.08
9-15-54	4 "	"	13.08
9-30-54	1 "	8/6 Cans	6.48
10-20-54	4 "	Pts.	13.08
"	1 "	8/6 Cans	6.48
11- 1-54	4 "	Pts.	13.08
11-17-54	4 "	"	13.08

Respondent's Exhibit 80

<i>Date</i>	<i>Quantity</i>	<i>Size</i>	<i>Total Cost</i>
11-24-54	4 "	"	13.08
12- 3-54	4 "	"	13.08
"	1 "	8/6 Cans	6.48
12- 8-54	2 "	"	12.96
12-23-54	4 "	Pts.	13.08
12-30-54	4 "	"	13.08
10- 7-54	4 "	"	13.08
Total			\$ 349.41

Budweiser--Ernest L. Schafer & Sons

1- 5-54	4 Cases	24/12 Oz. RB	17.32
"	8 "	36/7 Oz. "	35.12
"	2 "	48/12 Oz. Cans	15.16
1-27-54	4 "	24/12 Oz. R.B.	17.32
"	4 "	36/7 Oz. "	17.56
"	1 "	48/12 Oz. Cans	7.58
2- 4-54	2 "	24/12 Oz. RB	8.66
"	4 "	36/7 Oz. "	17.56
2-10-54	3 "	24/12 Oz. "	12.99
"	3 "	36/7 Oz. "	13.17
"	2 "	48/12 Oz. Cans	15.16
2-17-54	3 "	24/12 Oz. RB	12.99
"	3 "	36/7 Oz. "	13.17
"	1 "	48/12 Oz. Cans	7.58
2-24-54	4 "	24/12 Oz. RB	17.32
"	4 "	36/7 Oz. "	17.56
"	3 "	48/12 Oz. Cans	22.74
3- 3-54	4 "	24/12 Oz. RB	17.32
"	4 "	36/7 Oz. "	17.56
"	1 "	48/12 Oz. Cans	7.58
3-11-54	4 "	24/12 Oz. RB	17.32
"	4 "	36/7 Oz. "	17.56

Respondent's Exhibit 80

<i>Date</i>	<i>Quantity</i>	<i>Size</i>	<i>Total Cost</i>
3-17-54	2 "	24/12 Oz. "	8.66
"	4 "	36/7 Oz. "	17.56
3-24-54	3 "	24/12 Oz. "	12.99
(908)			
3-24-54	2 Cases	48/12 Oz. Cans	15.16
3-31-54	3 "	24/12 Oz. RB	12.99
"	3 "	36/7 Oz. "	13.17
"	1 "	48/12 Oz. Cans	7.58
4-12-54	5 "	24/12 Oz. RB	21.65
"	5 "	36/7 Oz. "	21.95
"	1 "	48/12 Oz. Cans	7.58
4-21-54	4 "	36/7 Oz. RB	17.56
"	2 "	36/7 Oz. "	8.78
"	2 "	48/12 Oz. Cans	15.16
4-28-54	4 "	36/7 Oz. RB	17.56
"	2 "	48/12 Oz. Cans	15.16
5- 4-54	5 "	24/12 Oz. RB	21.65
"	5 "	36/7 Oz. "	21.95
"	3 "	48/12 Oz. Cans	22.74
5-26-54	4 "	24/12 Oz RB	17.32
"	1 "	12/32 Oz. NRB	4.24
"	5 "	36/7 Oz. RB	21.95
"	2 "	12/12 Oz Cans	3.79
"	1 "	48/12 Oz. Cans	7.58
5-12-54	3 "	24/12 Oz RB	12.99
"	5 "	36/7 Oz "	21.95
"	2 "	48/12 Oz Cans	16.16
5-19-54	5 "	24/12 Oz RB	21.65
"	5 "	36/7 Oz "	21.95
"	2 "	48/12 Oz Cans	15.16
5- 1-54	5 "	36/7 Oz RB	21.95
6- 4-54	4 "	24/12 Oz RB	17.32
"	2 "	48/12 Oz Cans	15.16
6-10-54	4 "	24/12 Oz RB	17.32
"	5 "	36/7 Oz RB	21.95

Respondent's Exhibit 80

<i>Date</i>	<i>Quantity</i>	<i>Size</i>	<i>Total Cost</i>
6-15-54	4 "	24/12 Oz RB	17.32
"	7 "	36/7 Oz. RB	30.73
"	10 "	12/12 Oz. Cans	18.95
"	2 "	48/12 Oz. Cans	15.16
6-23-54	4 "	24/12 Oz. RB	17.32
"	5 "	36/7 Oz. RB	21.95
"	5 "	24/12 Oz. Cans	18.95
"	2 "	48/12 Oz. Cans	15.16
6-30-54	4 "	24/12 Oz. RB	17.32
"	6 "	36/7 Oz. RB	26.34
"	6 "	12/12 Oz. Cans	11.37
"	1 "	48/12 Oz. Cans	7.58
7- 6-54	2 "	8/6 Cans	15.16
"	10 "	12/12 Cans	18.95
"	4 "	Pts. R. B.	17.32
(909)			
7- 9-54	2 Cases	24/12 Oz. RB	8.66
"	6 "	36/7 Oz. RB	26.34
7-13-54	5 "	Pts.	21.65
7-15-54	5 "	36/7 Oz. RB	21.95
"	4 "	24/12 Oz. Cans	15.16
"	1 "	48/12 Oz. Cans	7.58
7-19-54	6 "	Pts.	25.98
"	8 "	Pts. Jr.	35.12
"	3 "	Cans	11.37
7-21-54	2 "	48/12 Oz. Cans	15.16
7-27-54	6 "	Cans	22.74
"	2 "	8/6 Cans	15.16
7-28-54	6 "	24/12 Oz. RB	25.98
"	6 "	36/7 Oz. RB	26.34
8- 2-54	6 "	24/12 Oz. RB	25.98
"	6 "	36/7 Oz. RB	26.34
"	6 "	24/12 Oz. Cans	22.74
8- 9-54	5 "	24/12 Oz. RB	21.65
"	8 "	36/7 Oz. RB	35.12
"	2 "	48/12 Oz. Cans	15.16

Respondent's Exhibit 80

<i>Date</i>	<i>Quantity</i>	<i>Size</i>	<i>Total Cost</i>
8-13-54	5 "	24 12 Oz. RB	21.65
"	5 "	36 7 Oz. RB	21.95
"	8 "	12 12 Oz. Cans	15.16
8-19-54	5 "	24 12 Oz. RB	21.65
"	5 "	36 7 Oz. RB	21.95
"	4 "	24 12 Oz. Cans	15.16
8-23-54	6 "	24 12 Oz. Cans	25.98
"	8 "	36 7 Oz. Cans	35.12
"	6 "	24 12 Oz. Cans	22.74
8-30-54	6 "	24 12 Oz. Cans	25.98
"	8 "	36 7 Oz. Cans	35.12
"	6 "	24 12 Oz. Cans	22.74
9- 9-54	6 "	24 12 Oz. RB	25.98
"	8 "	36 7 Oz. RB	35.12
"	3 "	24 12 Oz. Cans	11.37
"	1 "	48 12 Oz. Cans	7.58
9-15-55	5 "	24 12 Oz. RB	21.65
"	5 "	36 7 Oz. RB	21.95
"	2 "	48 12 Oz. Cans	15.16
9-20-54	8 "	24 12 Oz. RB	34.64
"	8 "	36 7 Oz. RB	35.12
"	6 "	24 12 Oz. Cans	22.74
9-27-54	8 "	24 12 Oz. Rb	34.64
"	8 "	36 7 Oz. RB	35.12
"	6 "	24 12 Oz. Cans	22.74
10- 1-54	5 "	24 12 Oz. RB	21.65
(910)			
10- 4-54	9 Cases	24 12 Oz. RB	38.97
"	8 "	36 7 Oz. RB	35.12
"	2 "	24 12 Oz. Cans	7.58
10- 1-54	8 "	36 7 Oz. RB	35.12
"	5 "	24 12 Oz. Cans	18.95
10-17-54	8 "	24 12 Oz. RB	34.64
"	7 "	36 7 Oz. RB	30.73
"	6 "	24 12 Oz. Cans	22.74

Respondent's Exhibit 80

<i>Date</i>	<i>Quantity</i>	<i>Size</i>	<i>Total Cost</i>
10-19-54	8 "	24/12 Oz. Rb	34.64
"	8 "	36/7 Oz. RB	35.12
"	4 "	24/12 Oz. Cans	15.16
10-27-54	8 "	24/12 Oz. RB	34.64
"	6 "	36/7 Oz. RB	26.34
"	6 "	24/12 Oz. Cans	22.74
11- 1-54	8 "	24/12 Oz. Rb	34.64
"	8 "	36/7 Oz. RB	35.12
"	2 "	48/12 Oz. Cans	15.16
11- 9-54	8 "	24/12 Oz. RB	34.64
"	8 "	36/7 Oz. RB	35.12
"	5 "	24/12 Oz. Cans	18.95
11-18-54	8 "	24.12 Oz. RB	34.64
"	8 "	36/7 Oz. RB	35.12
"	5 "	24/12 Oz. Cans	18.95
11-24-54	8 "	24 12 Oz. RB	34.64
"	6 "	36/7 Oz. RB	26.34
"	5 "	24/12 Oz. Cans	18.95
12- 2-54	4 "	24/12 Oz. RB	17.32
"	8 "	36/7 Oz. RB	35.12
"	2 "	48/12 Oz. Cans	15.16
12- 9-54	8 "	24/12 Oz. RB	34.64
"	5 "	36/7 Oz. RB	21.95
12-16-54	8 "	24 12 Oz. RB	34.64
"	6 "	36/7 Oz. RB	26.34
"	2 "	48/12 Oz. Cans	15.16
12-23-54	8 "	24/12 Oz. RB	34.64
"	7 "	36/7 Oz. RB	30.73
"	2 "	48/12 Oz. Cans	15.16
12-30-54	8 "	24/12 Oz. RB	34.64
"	8 "	36/7 Oz. RB	35.12
1-15-54	5 "	24/12 Oz. RB	21.65
"	2 "	48/12 Oz. Cans	15.16
1-22-54	4 "	24/12 Oz. RB	17.32
"	4 "	36/7 Oz. RB	17.56

Total

\$3,368.08

Respondent's Exhibit 80

(911)

Schlitz—Shelton Dist. Co.

<i>Date</i>	<i>Quantity</i>	<i>Size</i>	<i>Total Cost</i>
1- 7-54	3 Cases	24/12 Oz. RB	12.99
"	2 "	36/7 Oz. RB	8.78
1-13-54	3 "	36/7 Oz. RB	13.17
1-25-54	2 "	24/12 Oz. RB	8.66
"	1 "	36/7 Oz. RB	4.39
1-28-54	4 "	36/7 Oz. RB	17.56
2- 4-54	2 "	24/12 Oz. RB	8.66
"	4 "	36/7 Oz. RB	17.56
2-10-54	1 "	8/6 12 Oz. Cans	7.58
2-17-54	2 "	24/12 Oz. RB	8.66
"	4 "	36/7 Oz. RB	17.56
2-26-54	3 "	24/12 Oz. RB	4.33
"	4 "	36/7 Oz. RB	4.39
3- 8-54	2 "	24/12 Oz. RB	4.33
"	3 "	36/7 Oz. RB	4.39
3-15-54	2 "	24/12 Oz. RB	8.66
"	3 "	36/7 Oz. RB	13.17
3-29-54	2 "	24/12 Oz. RB	8.66
"	4 "	36/7 Oz. RB	17.56
4- 9-54	3 "	24/12 Oz. RB	17.99
"	4 "	36/7 Oz. RB	17.56
4-19-54	3 "	24/12 Oz. RB	12.99
"	2 "	36/7 Oz. RB	8.78
4-30-54	4 "	36/7 Oz. RB	17.56
5- 3-54	3 "	24/12 Oz. RB	12.99
"	1 "	8/6 12 Oz. Cans	7.58
"	2 "	36/7 Oz. RB	8.78
5-10-54	5 "	36/7 Oz. RB	21.95
5-17-54	3 "	24/12 Oz. RB	12.99
"	3 "	36/7 Oz. RB	13.17
5-27-54	4 "	36.7 Oz. RB	17.56
6- 2-54	3 "	24/12 Oz. RB	12.99
"	1 "	8/6 12 Oz. Cans	7.58

Respondent's Exhibit 80

<i>Date</i>	<i>Quantity</i>	<i>Size</i>	<i>Total Cost</i>
6-18-54	3 "	24/12 Oz. RB	12.99
"	5 "	36/7 Oz. RB	21.95
6-25-54	3 "	24/12 Oz. RB	12.99
"	1 "	8/6 12 Oz. Cans	7.58
7- 1-54	4 "	36/7 Oz. RB	17.56
7- 9-54	4 "	24/12 Oz. RB	17.32
"	2 "	36/7 Oz. RB	8.78
7-19-54	4 "	24/12 Oz. RB	4.33
"	3 "	36/7 Oz. RB	4.39
8- 2-54	4 "	24/12 Oz. RB	17.32
"	1 "	8/6 12 Oz. Cans	7.58

(912)

8- 2-54	3 Cases	36/7 Oz. RB	13.17
9- 9-54	4 "	24/12 Oz. RB	17.32
"	1 "	8/6 12 Oz. Cans	7.58
"	4 "	36/7 Oz. RB	17.56
8-16-54	4 "	24/12 Oz. RB	17.32
"	1 "	8/6 12 Oz. Cans	7.58
8-23-54	4 "	36/7 Oz. RB	17.56
8-26-54	4 "	24/12 Oz. RB	17.32
8-30-54	4 "	24/12 Oz. RB	17.32
9- 2-54	3 "	36/7 Oz. RB	13.17
9-17-54	4 "	24/12 Oz. RB	17.32
"	3 "	36/7 Oz. RB	13.17
9-23-54	1 "	8/6 12 Oz. Cans	7.58
9-27-54	4 "	36/7 Oz. RB	17.56
10- 1-54	1 "	8/6 12 Oz. Cans	7.58
10- 4-54	4 "	24/12 Oz. RB	17.32
"	3 "	36/7 Oz. RB	13.17
10-18-54	4 "	24/12 Oz. RB	17.32
"	1 "	8/6 12 Oz. Cans	7.58
11- 1-54	4 "	36/7 Oz. RB	17.56
11-12-54	4 "	24/12 Oz. RB	17.32
11-24-54	4 "	24/12 Oz. RB	17.32
"	3 "	36/7 Oz. RB	13.17

Respondent's Exhibit 80

<i>Date</i>	<i>Quantity</i>	<i>Size</i>	<i>Total Cost</i>
12- 6-54	2 "	8/6 12 Oz. Cans	15.16
"	4 "	36/7 Oz. RB	17.56
12-20-54	4 "	24/12 Oz. RB	17.32
12-29-54	4 "	36/7 Oz. RB	17.56
Total			\$ 911.79

Stag—Stag Sales Co.

1-13-54	5 Cases	—	Bottles	16.35
1-27-54	5 "	10	"	16.35
2- 4-54	5 "		"	16.35
2-17-54	5 "	—	"	16.35
2-24-54	4 "	14	1/2 Cs. Cans	6.48
3- 3-54	10 "		Bottles	32.70
3-17-54	5 "		"	16.35
3-31-54	5 "	—	"	16.35
"	18 "	38	4/6 Cs. Cans	6.48
4- 7-54	5 "		Bottles	16.35
4-22-54	10 "		"	32.70
4-28-54	5 "	—	"	16.35
"	3 "	23	"	10.86
5- 5-54	8 "		"	26.16
(913)				
5- 5-54	18 Cases		4/6 Cs. Cans	6.48
5-12-54	5 "		Bottles	16.35
"	4 "		7 Oz.	14.48
5-19-54	7 "		Bottles	22.89
5-26-54	7 "	—	"	22.89
"	1 "	50	Qts.	3.51
6- 2-54	5 "		Bottles	16.35
6- 9-54	7 "		"	22.89
6-17-54	18 "	—	4/6 Cs. Cans	6.48
"	3 "	33	7 Oz.	10.86
7- 8-54	8 "		Bottles	26.16

Respondent's Exhibit 80

<i>Date</i>	<i>Quantity</i>	<i>Size</i>	<i>Total Cost</i>
7-14-54	5 “ —	“	16.35
7-21-54	5 “ 18	“	16.35
8- 6-54	5 “	“	16.35
8-11-54	5 “ —	“	16.35
8-18-54	5 “ 15	“	16.35
9- 1-54	5 “	“	16.35
9- 8-54	5 “	“	16.35
“	1 “	8/6 Cs. Cans	6.48
9-22-54	5 Cases	Bottles	16.35
“	1 “ —	8/6 Cs. Cans	6.48
9-29-54	1 “ 18	8/6 Cs. Cans	6.48
10- 6-54	8 “	Bottles	26.16
10-14-54	5 “ —	“	16.35
10-27-54	5 “ 18	“	16.35
11-12-54	5 “	“	16.35
11-17-54	5 “ —	“	16.35
11-24-54	2 “ 12	8/6 Cs. Cans	12.96
12- 1-54	5 “	Bottles	16.35
12-16-54	5 “	“	16.35
12-22-54	2 “ —	8/6 Cs. Cans	12.96
12-27-54	5 “ 17	Bottles	16.35
Total			\$ 732.29

Respondent's Exhibit 81-A/H

(914)

Richard E. Curren Jr. DBA

Jr's Tavern

205 E. Wash. Street

Springfield, Ill.

Purchases—1955

<i>Date</i>	<i>Quantity</i>	<i>Size</i>	<i>Total Cost</i>
Miller's- E & F Dist. Co.			
1-28-55	2 Cases	8/6	15.16
4-7-55	1 "	8/6	7.58
5-12-55	1 "	8/6	7.58
Total			\$ 30.32

Griesedieck—W. F. McHenry & Co.

1-6-55	5 Cases	12 Oz.	16.35
"	2 "	6 Pk.	12.96
1-10-55	10 "	12 Oz.	32.70
"	1 "	6 Pk.	6.48
1-17-55	10 "	12 Oz.	32.70
1-26-55	10 "	12 Oz.	32.70
"	2 "	6 Pk.	12.96
1-16-55	5 "	— 12 Oz.	16.35
"	2 "	47 6 Pk.	6.48
2-10-55	10 "	12 Oz.	32.70
2-3-55	10 "	"	32.70
2-24-55	10 "	— "	32.70
"	1 "	31 6 Pk.	6.48
3-17-55	10 "	12 Oz.	32.70
3-31-55	5 "	"	16.35
3-24-55	5 "	— "	16.35
3-10-55	10 "	30 "	32.70

Respondent's Exhibit 81

<i>Date</i>	<i>Quantity</i>		<i>Size</i>	<i>Total Cost</i>
4- 7-55	5 "		"	16.35
"	1 "		6 Pk.	6.48
4-28-55	1 "		"	6.48
4-14-55	5 "	—	12 Oz.	16.35
4-21-55	10 "	22	"	32.70
5- 5-55	10 "		"	32.70
5-12-55	5 "	—	"	16.35
5-26-55	10 "	25	"	32.70
6- 2-55	5 "		"	16.35
6-16-55	10 "		"	32.70
"	2 "		6 Pk.	12.96
6-30-55	5 "	—	12 Oz.	16.35
"	1 "	23	6 Pk.	6.48
7-14-55	5 "	—	12 Oz.	16.35
7- 7-55	5 "	10	"	16.35
8- 4-55	10 "		"	32.70
8-11-55	2 "	—	6 Pk.	12.96
8-18-55	5 "	17	12 Oz.	16.35
9-22-55	5 "		"	16.35

(915)

9- 2-55	10 "		12 Oz.	32.70
9-15-55	5 "	—	"	16.35
9- 8-55	2 "	22	6 Pk.	12.96

Total

\$ 790.38

Pabst Blue Ribbon—
H. E. Maurer Dist. Co.

3-11-55	2 Cases		8/6	15.16
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Total

\$ 15.16

Respondent's Exhibit 81

<i>Date</i>	<i>Quantity</i>	<i>Size</i>	<i>Total Cost</i>
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Black Label—Orlandini & Son

3-23-55	2 Cases	12 Oz.	6.54
	Total		\$ 6.54

Gold Top—Reisch Brewing Co.

1- 7-55	4 Cases	12 Oz.	11.48
1-14-55	6 "	"	17.22
1-17-55	6 "	"	17.22
1-28-55	6 "	"	17.22
2-10-55	5 "	"	14.35
2- 4-55	4 "	"	11.48
2-18-55	5 "	"	14.35
3- 2-55	10 "	"	28.70
3-24-55	5 "	"	14.35
3-10-55	10 "	"	28.70
4-28-55	5 "	"	14.35
4-21-55	5 "	"	14.35
4-14-55	5 "	"	14.35
4- 4-55	5 "	"	14.35
5-26-55	6 "	"	17.22
5-19-55	6 "	"	17.22
5-12-55	6 "	"	17.22
5- 5-55	5 "	"	14.35
6- 9-55	6 "	"	17.22
6- 2-55	5 "	"	14.35
6-16-55	6 "	"	17.22
6-24-55	3 "	"	8.61
6-30-55	2 "	Qts.	6.20
"	5 "	12 Oz.	14.35
7-13-55	2 "	Qts.	6.20
"	2 "	12 Oz.	5.74

Respondent's Exhibit 81

(916)

<i>Date</i>	<i>Quantity</i>	<i>Size</i>	<i>Total Cost</i>
7-21-55	5 Cases	12 Oz.	14.35
7-29-55	1 "	Qts.	3.10
"	5 "	12 Oz.	14.35
8-29-55	2 "	Qts.	6.20
"	10 "	12 Oz.	28.70
8- 5-55	5 "	"	14.35
9- 8-55	2 "	Qts.	6.20
"	5 "	12 Oz.	14.35
9-22-55	1 "	Qts.	3.10
"	10 "	12 Oz.	28.70
9- 1-55	3 "	"	8.61
9-15-55	5 "	"	14.35
9-30-55	1 "	Qts.	3.10
"	10 "	12 Oz.	28.70
Total			\$ 576.53

Budweiser—Ernest L. Schafer & Son

1-27-55	2 Cases	48/12 Oz.	15.16
1-17-55	8 "	24/12 Oz.	34.64
"	8 "	36/7 Oz.	35.12
"	2 "	8/6 10 Oz.	12.96
1-24-55	6 "	24/12 Oz.	25.98
"	8 "	36/7 Oz.	35.12
1-21-55	8 "	24/12 Oz.	34.64
"	3 "	36/7 Oz.	13.17
"	2 "	48/12 Oz.	15.16
1- 6-55	8 "	24/12 Oz.	34.64
"	8 "	36/7 Oz.	35.12
1-13-55	8 "	24/12 Oz.	34.64
"	8 "	36/7 Oz.	35.12
2-19-55	8 "	24/12 Oz.	32.00
"	8 "	36/7 Oz.	35.20
"	2 "	48/12 Oz.	15.16

Respondent's Exhibit 81

<i>Date</i>	<i>Quantity</i>	<i>Size</i>	<i>Total Cost</i>
2-21-55	8 "	24 12 Oz.	32.00
"	10 "	36 7 Oz.	44.00
2-28-55	8 "	24 12 Oz.	32.00
"	10 "	36 7 Oz.	44.00
"	2 "	48 12 Oz.	15.16
"	1 "	48 12 Oz.	7.58
2-3-55	8 "	24 12 Oz.	34.64
"	8 "	36 7 Oz.	35.12
2-16-55	8 "	24 12 Oz.	32.00
"	8 "	36 7 Oz.	35.20
3-3-55	2 "	36 7 Oz.	8.80

(917)

3-3-55	3 Cases	48 12 Oz.	22.74
3-10-55	8 "	24 12 Oz.	32.00
"	11 "	36 7 Oz.	48.40
3-18-55	6 "	24 12 Oz.	24.00
3-24-55	6 "	24 12 Oz.	24.00
"	9 "	36 7 "	39.60
"	2 "	48 12 Oz.	15.16
3-31-55	5 "	24 12 Oz.	20.00
"	7 "	36 7 Oz.	30.80
"	1 "	48 12 Oz.	7.58
"	2 "	48 12 Oz.	15.16
3-16-55	4 "	24 12 Oz.	16.00
"	10 "	36 7 Oz.	44.00
"	2 "	48 12 Oz.	15.16
4-26-55	8 "	24 12 Oz.	32.00
"	12 "	36 7 Oz.	52.80
"	2 "	12 12 Oz.	15.16
"	2 "	7 Oz. Lager	6.34
4-21-55	8 "	24 12 Oz.	32.00
"	8 "	36 7 Oz.	35.20
"	1 "	Bl. Pt.	3.17
"	1 "	12 12 Oz.	7.58
"	1 "	48 12 Oz.	7.58
"	1 "	Bl. 8/6	6.48

Respondent's Exhibit 81

<i>Date</i>	<i>Quantity</i>	<i>Size</i>	<i>Total Cost</i>
4-13-55	8 "	24 12 Oz.	32.00
"	8 "	36 7 Oz.	35.20
"	2 "	48 12 Oz.	15.16
"	1 "	48 12 Oz.	7.58
4-7-55	6 "	24 12 Oz.	24.00
"	8 "	36 7 Oz.	35.20
"	2 "	48 12 Oz.	15.16
5-27-55	10 "	24 12 Oz.	40.00
"	8 "	36 7 Oz.	35.20
"	2 "	48 12 Oz.	15.16
5-18-55	10 "	24 12 Oz.	40.00
"	6 "	36 7 Oz.	26.40
"	2 "	48 12 Oz.	15.16
"	2 "	48 12 Oz.	15.16
5-10-55	10 "	24 12 Oz.	40.00
"	10 "	36 7 Oz.	44.00
"	1 "	48 12 Oz.	7.58
"	2 "	48 12 Oz.	15.16
5-5-55	10 "	24 12 Oz.	40.00
"	12 "	36 7 Oz.	52.80
"	1 "	48 12 Oz.	7.58
6-30-55	5 "	24 12 Oz.	20.00

(918)

6-30-55	3 Cases	36 7 Oz.	13.20
"	1 "	48 12 Oz.	7.58
6-24-55	10 "	24 12 Oz.	40.00
"	8 "	36 7 Oz.	35.20
6-15-55	12 "	24 12 Oz.	48.00
"	4 "	36 7 Oz.	17.60
6-9-55	10 "	24 12 Oz.	40.00
"	7 "	36 7 Oz.	30.80
6-1-55	10 "	24 12 Oz.	40.00
"	8 "	36 7 Oz.	35.20
7-21-55	5 "	24 12 Oz.	20.00
"	5 "	36 7 Oz.	22.00
"	1 "	48 12 Oz.	7.58

Respondent's Exhibit 81

<i>Date</i>	<i>Quantity</i>	<i>Size</i>	<i>Total Cost</i>
7-7-55	8 "	24 12 Oz.	32.00
"	8 "	36 7 Oz.	35.20
"	1 "	48 12 Oz.	7.58
7-15-55	8 "	24 12 Oz.	32.00
"	8 "	36 7 Oz.	35.20
"	2 "	48 12 Oz.	15.16
8-1-55	4 "	24 12 Oz.	16.00
"	6 "	36 7 Oz.	26.40
"	3 "	48 12 Oz.	22.74
8-29-55	10 "	24 12 Oz.	40.00
"	9 "	36 7 Oz.	39.60
8-11-55	8 "	24 12 Oz.	32.00
"	8 "	36 7 Oz.	35.20
"	2 "	48 12 Oz.	15.16
8-1-55	8 "	24 12 Oz.	32.00
"	7 "	36 7 Oz.	30.80
"	2 "	48 12 Oz.	15.16
9-8-55	10 "	24 12 Oz.	40.00
"	10 "	36 7 Oz.	44.00
9-15-55	10 "	24 12 Oz.	40.00
"	10 "	36 7 Oz.	44.00
9-22-55	5 "	24 12 Oz.	20.00
"	9 "	36 7 Oz.	39.60
9-30-55	8 "	24 12 Oz.	32.00
"	7 "	36 7 Oz.	30.80
Total			\$3,005.50

(919)

Schlitz's—Shelton Dist. Co.

1-10-55	4 Cases	24 12 Oz.	17.32
1-17-55	4 "	"	17.32
2-7-55	4 "	"	17.32
3-7-55	3 "	36 7 Oz.	13.17

Respondent's Exhibit 81

<i>Date</i>	<i>Quantity</i>	<i>Size</i>	<i>Total Cost</i>
3-14-55	3 "	24/12 Oz.	12.99
"	3 "	36/7 Oz.	13.17
3-28-55	4 "	24/12 Oz.	17.32
4-11-55	4 "	24/12 Oz.	17.32
"	1 "	8/6 12 Oz.	7.58
"	3 "	35/7 Oz.	13.17
5-18-55	4 "	24/12 Oz.	17.32
"	3 "	36/7 Oz.	13.17
5- 5-55	4 "	24/12 Oz.	17.32
"	3 "	36/7 Oz.	13.17
6-24-55	4 "	24/12 Oz.	17.32
"	3 "	35/7 Oz.	12.66
6- 6-55	4 "	24/12 Oz.	17.32
7-18-55	4 "	"	17.32
7-11-55	1 "	8/6 12 Oz.	7.58
"	3 "	36/7 Oz.	12.66
8-29-55	4 "	24/12 Oz.	17.32
"	3 "	36/7 Oz.	12.66
8- 8-55	4 "	24/12 Oz.	17.32
8- 1-55	4 "	24/12 Oz.	17.32
"	3 "	36/7 Oz.	12.66
9-19-55	4 "	24/12 Oz.	17.32
9- 8-55	1 "	8/6 12 Oz.	7.58
"	3 "	36/7 Oz.	12.66
Total			\$ 407.36

Respondent's Exhibit 81

Falstaff—Starr Bros., Inc.

<i>Date</i>	<i>Quantity</i>	<i>Size</i>	<i>Total Cost</i>
1- 6-55	4 Cases	Pts.	13.08
1-24-55	4 "	"	13.08
2- 3-55	4 "	"	13.08
2-10-55	4 "	"	13.08
2-23-55	4 "	"	13.08
2-17-55	4 "	"	13.08
3-16-55	5 "	"	16.35
3-25-55	4 "	"	13.08
4-27-55	4 "	"	13.08
4-13-55	4 "	"	13.08
"	1 "	8/6 Cans	6.48

Respondent's Exhibit 81

(1920)

<i>Date</i>	<i>Quantity</i>	<i>Size</i>	<i>Total Cost</i>
5-25-55	2 Cases	8-6 Cans	12.96
5-18-55	4 "	Pts.	13.08
5- 4-55	4 "	"	13.08
6-15-55	4 "	"	13.08
6- 1-55	4 "	"	13.08
7- 6-55	4 "	"	13.08
"	1 "	8-6 Cans	6.48
7- 3-55	5 "	Pts.	16.35
7-20-55	4 "	"	13.08
8-31-55	5 "	"	16.35
8-17-55	3 "	"	9.81
"	1 "	8-6 Cans	6.48
8-10-55	5 "	Pts.	16.35
9-14-55	5 "	"	16.35
9-21-55	5 "	"	16.35
Total			\$ 336.51

Stag—Stag Sales Co.

1-26-55	10 Cases	Bottles	32.70
1-19-55	5 "	"	16.35
1- 6-55	5 "	"	16.35
1-12-55	5 "	25 "	16.35
2- 2-55	5 "	"	16.35
"	2 "	8-6 Cans	12.96
2-23-55	5 "	Bottles	16.35
2-17-55	10 "	22 "	32.70
3-16-55	10 "	"	32.70
"	2 "	8-6 Cans	12.96
3-23-55	9 "	21 Bottles	29.43
4-20-55	5 "	"	16.35
4- 7-55	9 "	"	29.43
"	1 "	8-6 Cans	6.48

Respondent's Exhibit 81

<i>Date</i>	<i>Quantity</i>		<i>Size</i>	<i>Total Cost</i>
4-27-55	5 "	—	Bottles	16.35
"	1 "	21	8/6 Cans	6.48
5- 5-55	5 "		Bottles	16.35
"	1 "		8/6 Cans	6.48
5-25-55	5 "		Bottles	16.35
"	1 "	—	8/6 Cans	6.48
5-18-55	5 "	17	Bottles	16.35
6-29-55	10 "		"	32.70
"	1 "		8/6 Cans	6.48
6-22-55	5 "		Bottles	16.35
"	1 "		8/6 Cans	6.48
6-15-55	10 "		Bottles	32.70

(921)

6-15-55	1 Cases		8/6 Cans	6.48
6- 8-55	10 "		Bottles	32.70
"	1 "		8/6 Cans	6.48
6- 1-55	4 "	—	Bottles	13.08
"	1 "	44	8/6 Cans	6.48
7- 7-55	5 "		Bottles	16.35
"	1 "		8/6 Cans	6.48
7-13-55	5 "		Bottles	16.35
"	2 "	—	8/6 Cans	12.96
7-20-55	10 "	23	Bottles	32.70
8-29-55	10 "		"	32.70
"	1 "		8/6 Cans	6.48
8-10-55	10 "		Bottles	32.70
"	1 "	—	8/6 Cans	6.48
8-17-55	2 "	24	"	12.96
9- 7-55	10 "		Bottles	32.70
9-28-55	4 "		"	13.08
"	1 "		8/6 Cans	6.48
9-21-55	10 "	—	Bottles	32.70
"	1 "	26	8/6 Cans	6.48

Total**\$ 786.75**

Respondent's Exhibit 82

(922)

C U R R E N

Springfield, Ill.

Total case purchases:

1953	1,471
1954	2,018

Increase 37.2%

G-B case purchases:

1953	430
1954	411

Decrease 4.4%

G-B case purchases (6 months 1953-1954)

1953	(Jan.-June)	202
1954	" "	229

Increase 13.4%

1953	(July-Dec.)	228
1954	" "	182

Decrease 20.2%

1337

Respondent's Exhibit 83

[LETTERHEAD OF]

NOLAN ACCOUNTING SERVICE

November 21, 1955

at's Tavern

Report of total beer purchased per month, amount of Griesedick per month and percent total per month.

1 9 5 3

Month	Gries Purchased	Total Purchased	% of Total
January	\$ 168.00	\$ 651.50	25.80
February	204.40	764.80	26.70
March	324.80	915.41	35.30
April	296.80	987.44	29.90
May	198.80	891.61	22.17
June	310.80	1,112.37	27.93
July	484.40	1,439.11	33.83
August	420.00	1,678.63	25.15
September	448.00	1,618.41	27.82
October	257.60	1,201.71	21.40
November	434.00	1,355.59	32.16
December	397.60	1,575.91	25.29
Year total & average	\$ 3,945.20	\$14,192.49	27.97

*Respondent's Exhibit 83*1 9 5 4

[January	\$ 285.60		\$ 1,365.76	
[February	280.00		1,429.51	
[March	425.60	+ 35.2	1,587.80	
[April	282.80		1,531.39	
[May	280.00		1,586.70	
[June	478.80	2,032.80	2,153.55	
[July	[327.60		1,985.22	
[August	[425.60		2,026.96	
[September	av -- 34.2	[154.00	1,639.63	
[October	1,607.20	[280.00	1,665.61	16,972.13
[November	10 months	[170.80	1,311.73	
[December		[249.20	1,678.89	
<hr/>				
Year total & average	\$3,640.00	7.7% Decrease	\$19,962.75	40.6%

1 9 5 5

January	\$ 215.60		\$ 1,292.38	
February	238.00		1,429.04	
March	308.00		1,403.47	
April	210.00	- 36%	1,567.00	
May	232.40		1,511.33	
June	97.20	1,301.20	1,538.41	
July	246.40		1,721.80	
August	266.00		1,746.08	
September	322.00		1,654.70	
October	137.20		1,408.17	
<hr/>				
Year Total	\$ 2,272.80	- 20.4	\$15,272.38	10%

Respondent's Exhibit 84

(924)

CURT'S TAVERN

Decatur, Ill.

Total Beer purchases:

1953	\$14,192.49
1954	19,962.75

Increase 40.6%

G-B beer purchases:

1953	\$3,945.20
1954	3,640.00

Decline 7.2%

G-B beer purchases last six months 1953 and
last six months 1954:

1953	(July-Dec.)	\$2,441.60
1954	" "	1,607.20

Decline 34.2%

Respondent's Exhibit 88-A/C

(931)

[LETTERHEAD OF]

DIEMLER'S

CONFIDENTIAL

WHOLESALE GRIESEDEICK BEER COST TO DIEMLER'S STORE

<i>Month</i>	<i>1953</i>	<i>1954</i>	<i>1955</i>
JANUARY	\$ 741.90	464.92	510.44
FEBRUARY	682.40	617.22	566.80
MARCH	585.40	756.38	714.80
APRIL	839.20	808.84	686.16
MAY	1,227.00	1,457.64	938.60
JUNE	1,821.42	1,033.56	1,103.43
JULY	1,252.44	1,144.64	1,012.02
AUGUST	1,202.00	1,062.33	1,294.55
SEPTEMBER	1,075.80	984.32	910.80
OCTOBER	1,051.04	952.44	571.28
NOVEMBER	654.80	978.88	
DECEMBER	747.06	807.60	
TOTALS	<u>\$11,880.46</u>	<u>\$11,068.77</u>	<u>\$8,308.88</u>

CONFIDENTIAL

Respondent's Exhibit 88

[LETTERHEAD OF]

DIEMLER'S

CONFIDENTIAL

PRICES PAID TO WHOLESALERS FOR BEER ONLY
FOR DIEMLER'S STORE

Month	1953	1954	1955
JANUARY	\$1,792.51	\$1,917.00	\$1,598.54
FEBRUARY	1,777.46	1,625.40	1,873.27
MARCH	1,802.42	1,566.48	2,547.80
APRIL	3,363.61	2,373.23	2,958.08
MAY	4,004.39	3,545.92	4,575.24
JUNE	5,062.83	3,426.24	5,727.77
JULY	3,823.69	3,918.69	4,252.54
AUGUST	4,169.39	3,973.13	6,378.22
SEPTEMBER	2,823.07	2,839.14	4,129.75
OCTOBER	3,134.75	2,585.95	2,821.03
NOVEMBER	2,132.10	3,391.78	
DECEMBER	3,124.93	2,169.27	
TOTALS:	<u>\$35,411.15</u>	<u>\$33,330.23</u>	<u>\$36,862.24</u>

Compiled by Paul F. and Jean C. Diemler (November 20, 1955)

CONFIDENTIAL

Respondent's Exhibit 88

(932)

[LETTERHEAD OF]

DIEMLER'S

CONFIDENTIAL

WHOLESALE FALLSTAFF BEER COST TO DIEMLER'S STORE

Month	1953	1954	1955
JANUARY	\$ 117.18	\$ 174.08	\$ 250.00
FEBRUARY	71.38	183.48	35.00
MARCH	113.80	229.50	36.00
APRIL	77.50	155.66	45.00
MAY	257.52	405.88	64.00
JUNE	344.22	494.50	96.00
JULY	427.10	569.30	102.00
AUGUST	203.10	472.60	110.00
SEPTEMBER	346.38	447.34	60.00
OCTOBER	210.18	451.25	50.00
NOVEMBER	187.56	505.76	
DECEMBER	324.24	490.10	
TOTALS	\$2,680.15	\$4,579.45	\$6,400.00

Respondent's Exhibit 92

		28.9	
	1953	1954	1955
	858	969	1,350
Waiser	767	975	1,229
ers	743	460	386
Style	228	312	271
Staff	1,627	2,723	3,564
esedieck	3,029	3,906	3,393
g	1,246	1,704	2,343
adian Ace	4,294	4,954	5,228
ster Brau		625	793

<i>Bud.</i>	<i>Fall.</i>	<i>Ace</i>	<i>MB</i>
135	110	95	98
255	215	185	190
495	425	355	370

GB 28.9

Ralph's Pub and Liquor Store

13 Cases

March to Aug.

Respondent's Exhibit 93-A/B

(940)

JULIO FLORINI—JIBBY'S TAVERN

Sullivan, Ill.

	1953	1954	1955 (thru Oct.)
SALES*			
Budweiser	671	594	459 (See Page)
Schlitz-Pabst-Miller	NA	NA	Not Available
Griesedieck Bros.	1720	1493	975 (See Page)
Stag-Falstaff	NA	NA	Not Available
Budweiser 1/2 bbls.	335	314	203
COST TO RETAILER			
1. 24/12 oz. bottles			
Bud. Schlitz Pabst Millers	345	345	345
GB Stag Falstaff	265	265	265
2. 24/12 oz. Cans			
Bud. Schlitz Pabst Millers	375	375	375
GB Stag Falstaff	320	320	320
COST TO CONSUMER			
1. 6 cans (off Premise)			
Bud. Schlitz Pabst Millers	150	150	150
GB Stag Falstaff	130	130	130
2. Single Bottle (on Premise)			
Bud. Schlitz Pabst Millers	30	30	30
GB Stag Falstaff	25	25	25
3. Single Can (on Premise)			
Bud. Schlitz Pabst Millers	30	30	30
GB Stag Falstaff	30	30	30

*See detail sheet attached.

Respondent's Exhibit 93

JULIO FLORINI—JIBBYS TAVERN

Sullivan, Ill.

BUDWEISER						GRIESEDIECK BROS.					
1953	1954		1955			1953	1954		1955		
17	22		28			112	39		69		
55	41		39			88	99		47		
22	33		39			94	118		99		
41	326	22	246	36	237	107	781	126	743	87	526
95	47		35			142	132		90		
96	81		60			238	229		134		
—	—		—			—	—		—		
87	73		53			237	138		122		
65	54		65			165	128		144		
64	84		54			207	148		114		
58	345	47	348	50		116	939	106	710	69	—22.8
	504		459		—8.9		1263		975		
40	50		?			101	91		?		
31	40		?			113	99		?		
671	594		459			1720	1453		975		
	—11.5					—15.5					
6 months	345	348				939	710				

Respondent's Exhibits 97, 98, 99 and 100

The hearing examiner below directed that these exhibits be sealed, to be available only to the hearing examiner, attorneys for the parties and the Commission. It has been suggested that this portion of the record not be available for public examination, though, of course, available to the Court. Accordingly, these exhibits are not printed herein, but shall be handed up to the Court upon argument.

Excerpts From Respondent's Exhibit 110

(1052) **Booklet, "Where did they buy the beer?"**

* * *

(1055-1056) 58% of all package beer is consumed at home* and over half of this home-consumed beer is bought at food stores. According to Homemaker's Guild, 53.4% of all home-consumed beer is bought at food stores * * *

* * *

(1059) From 1939 to 1947 ,

Total Beer Sales in

All Outlets Increased 138%

but

Total Beer Sales in

Food Stores Increased 223%

* * *

(1065) In 1947, package beer sales *in food stores* averaged 4,084 cases per store.

In 1947, package beer sales *in all other outlets* averaged 2,184 cases per outlet.

* * *

*Source: Opinion Research Corp.

Respondent's Exhibit 111

(1084)

[LETTERHEAD OF]

HEARST ADVERTISING SERVICE

November 15, 1951

Mr. M. R. Garner
Food Store Sales Manager
Anheuser-Busch, Inc.
721 Pestalozzi Street
St. Louis 18, Missouri

Dear Mr. Garner:

I must apologize for this delay in answering your note of November 2 inquiring about the statement "in New York City 82% of all home consumed packaged beer is bought at food stores".

Part of the reason for the delay was our inability to get permission from some of our brewery friends to quote them by name as far as their individual businesses are concerned.

Therefore you must forgive the omission in this note of actual names of brewers, excepting Rubsam & Herrmann, who had no objection to our mentioning them as "placing the general figure above 90%" without permitting us to give you the figure for their brand in particular.

Respondent's Exhibit 111

Metropolitan Brewers' Institute has no actual figures that we can send you but states firmly that the figure would certainly be over 90% — (in their opinion between 90% and 95%).

A leading brewer in New York who does not wish to be quoted by name but who is one of the largest, do 90% of their packaged beer business for home consumption through food stores.

So you see the 82% figure that you used in your previous book and was right at the time you used it, has gone even higher. In my opinion it will always be a very high figure but I lean to the opinion that sooner or later in various parts of the country the tavern dealer will make a more determined bid for at least a share of the packaged goods home consumption market.

For all practical purposes Budweiser is primarily in the grocery business in New York City.

(1085)

Of course, as you know, I think this is the best thing that could ever happen in the beer business if we but fully realize it and take advantage of it as apparently you are doing.

Formerly, people who bought beer were people who set out to buy beer and went only to specified places where it was sold for the sole and specific purpose of buying it.

Respondent's Exhibit 111

Today, billions of bottles of beer are bought by people who set out to buy anything from table napkins to clafriters. Any one of the thousand-and-one items in a grocery store can now lead to a sale for Budweiser. Millions of people who never saw the inside of a tavern are now exposed regularly to the pleasant sight and suggestion of beer in familiar surroundings at just the time when things to eat and drink are on their mind.

That is why Budweiser must be displayed, must be easily and pleasantly at hand wherever consumers gather.

Good luck to you in your food store efforts!

Sincerely,

H. James Gediman

H. James Gediman

ef

Copy sent to Mr. Shine

Respondent's Exhibit 113

1095,

**PERCENT OF FOOD SALES BY SUPER MARKETS
TO TOTAL FOOD SALES**

1936 - 1954

<i>Year</i>	<i>Percent to Total</i>
1936	6.3%
1937	9.57%
1938	12.3
1939	19.4
1940	24.0
1941	25.0
1942	25.0
1943	26.0
1944	26.0
1945	27.0
1946	28.0
1947	29.0
1948	31.1
1949	35.2
1950	40.4
1951	41.8
1952	43.5
1953	48.0
1954	52.3

ST. LOUIS AND ST. LOUIS COUNTY

BEER

[illegible]

ST. LOUIS AND ST. LOUIS COUNTY

1955

[illegible]

January	
February	
March	
April	
May	
June	
July	
August	
September	
October	
November	
December	
TOTAL	

497	1261	1400						
2225		1400	1080	100				
959			4400	1234	4404	400	100	
	1450			1370	3000			1
3004				950	600			
	1450		6034	200	3000			2

Excerpts From Respondent's Exhibit 116

ST. LOUIS AND ST. LOUIS COUNTY

1954

	<i>Atlantic Statistical Cases</i>	<i>Atlas Statistical Cases</i>	<i>Corydon & Ohlrich Statistical Cases</i>	<i>Guinness Statistical Cases</i>	<i>Holterbosch Statistical Cases</i>	<i>Pabst Statistical Cases</i>	<i>Schlitz Statistical Cases</i>	<i>Schoenhofen-Edelweis Statistical Cases</i>	<i>Ballantine Statistical Cases</i>	<i>Star-Peerless Statistical Cases</i>	<i>Warsaw Statistical Cases</i>	<i>Canadian Ace Statistical Cases</i>	<i>Total Statistical Cases</i>
BEER													
ary	1223	13500	30	28	165	9595	8875	1400	—	591	—	—	35407
ary	—	18100	118	50	—	5805	7950	1422	1590	930	800	—	36765
	500	17900	25	5	—	9086	11819	1015	1496	1289	—	1400	44535
	—	28000	65	5	340	12205	10770	1383	—	1175	—	2740	60183
	515	26600	60	67	—	15100	13985	2757	1700	1585	1450	4110	73729
	1763	47500	65	—	200	26985	15815	—	1707	1000	1300	—	105050
	—	25100	45	—	—	43659	15745	1382	—	826	—	2800	100677
st	—	23675	—	—	—	44415	10395	—	1537	675	—	—	85897
mber	—	19600	20	—	210	41355	11676	1403	—	925	—	—	79409
er	508	16250	50	—	—	31080	8705	—	1419	600	—	—	62612
mber	—	12500	31	—	190	21115	6905	—	1571	700	—	—	46412
mber	—	14000	—	—	—	8130	7155	1406	2	375	—	—	32468
AL	4509	262725	509	155	1105	268530	129795	12168	11022	10671	3550	11050	763144

(1104)

*Excerpts From Respondent's Exhibit 116***ST. LOUIS AND ST. LOUIS COUNTY****1954**

	<i>Fox</i> <i>Statistical</i> <i>Cases</i>	<i>Goetz</i> <i>Statistical</i> <i>Cases</i>	<i>Van Munching</i> <i>Statistical</i> <i>Cases</i>	<i>Metropolis</i> <i>Statistical</i> <i>Cases</i>	<i>Queen City</i> <i>Statistical</i> <i>Cases</i>	<i>Fox Head</i> <i>Statistical</i> <i>Cases</i>	<i>Albrecht</i> <i>Statistical</i> <i>Cases</i>	<i>Stacole</i> <i>Statistical</i> <i>Cases</i>	<i>Statistical</i> <i>Cases</i>	<i>Statistical</i> <i>Cases</i>	<i>Statistical</i> <i>Cases</i>	<i>Statistical</i> <i>Cases</i>	<i>Statistical</i> <i>Cases</i>
PACKAGE BEER													
January	—	—											
February	—	—											
March	—	—											
April	2800	700											
May	5600	—	200										
June	7000	815	400	500									
July	4120	—	—	—	7000								
August	—	—	—	700	—	4500							
September	4205	—	—	—	—	—	15						
October	2650	—	200	600	—	—	—	550					
November	2800	400	200	—	—	—	—	—					
December	1400	—	—	—	—	—	—	—					
TOTAL	30575	1915	1000	1800	7000	4500	15	550					

*Excerpts From Respondent's Exhibit 116***ST. LOUIS AND ST. LOUIS COUNTY****1953**

	<i>Atlas Statistical Cases</i>	<i>Ballantine Statistical Cases</i>	<i>Holterbosch Statistical Cases</i>	<i>Metropolis Statistical Cases</i>	<i>Pabst Statistical Cases</i>	<i>Schlitz Statistical Cases</i>	<i>Star-Peerless Statistical Cases</i>	<i>Atlantic Statistical Cases</i>	<i>Edward-John Burle Statistical Cases</i>	<i>Albrecht Statistical Cases</i>	<i>Van Munching Statistical Cases</i>	<i>Goetz Statistical Cases</i>	<i>Total Statistical Cases</i>
PACKAGE BEER													
January		1599	150	1500	12350	14000	1885						31484
February		—	—	—	11703	16340	1250	1256	75				30624
March		1552	—	—	16695	16040	1645	1256	—	35			37223
April		1943	260	—	16375	20512	1167	1672	—	—	630		42559
May	1400	1800		1300	15295	11920	1922	757	75	—	—	1788	36257
June	17138	1600	130	—	18412	—	1710	11504	—	127	—	1800	54531
July	35552	1447	155	—	7320	900	1375	1750	—	36	—	—	48535
August	22000	1599	—	1500	30302	24420	1500	1963	—	—	—	1200	85749
September	36600	—	155	—	16585	20695	1602	3912	—	3	—	—	80862
October	30800	1500	170	—	9545	26960	750	1599	—	—	630	800	74163
November	18100	—	—	1450	9980	6950	1050	500	—	12	—	—	38047
December	28600	1704	150	—	7605	6270	1042	—	—	—	—	—	48606
TOTAL	190190	14744	1170	5750	172167	165007	16898	26169	150	213	1260	5588	608640

Excerpts From Respondent's Exhibit 116

ST. LOUIS AND ST. LOUIS COUNTY
1953

	<i>Canadian Ace</i> <i>Statistical</i> <i>Cases</i>	<i>Schoenhofen-Edelweis</i> <i>Statistical</i> <i>Cases</i>	<i>Warsaw</i> <i>Statistical</i> <i>Cases</i>	<i>Corydon-Ohlrich</i> <i>Statistical</i> <i>Cases</i>	<i>Guinness</i> <i>Statistical</i> <i>Cases</i>	<i>Carling</i> <i>Statistical</i> <i>Cases</i>	<i>Statistical</i> <i>Cases</i>	<i>Statistical</i> <i>Cases</i>	<i>Statistical</i> <i>Cases</i>	<i>Statistical</i> <i>Cases</i>	<i>Statistical</i> <i>Cases</i>	<i>Statistical</i> <i>Cases</i>	<i>Statistical</i> <i>Cases</i>
PACKAGE BEER													
January													
February													
March													
April													
May													
June	2100	10											
July	—	—											
August	—	—	1250	15									
September	—	—	1250	60									
October	—	1404	—	—	5								
November	—	—	—	5	—								
December	—	1444	835	—	6	950							
TOTAL	2100	2858	3335	80	11	950							

Respondent's Exhibit 118

(1149)

MODERN BREWERY AGE

**MISSOURI BREWING INDUSTRY LAGS FAR
BEHIND NATIONAL SHOWING IN '54**

AFTER chalking up record and near-record sales for the past seven years, Missouri breweries in 1954 fell to their lowest total since 1948.

Based on the state liquor department's annual report, Missouri brewers sold 7,151,597 barrels of fermented malt beverages last year. This was a sharp decline of 14.6% or 1,220,871 barrels from 1953, and a considerably greater drop than the national average taxpaid withdrawal setback of 3.2%.

Production at Six-Year-Low

Production of beer and ale by Missouri breweries during 1954 likewise hit a six-year low, with the 1954 aggregate of 7,665,511 barrels trailing the previous year by 17.4% or 1,336,629 barrels. The state's seven brewery companies produced 7.7% or 639,850 barrels less than in 1952, and 9.1% or 767,274 barrels less than in 1951.

Only One Ahead of '53

According to the official statistics, only one brewery was able to display a gain in total sales last year. That was Falstaff, whose Missouri plants enjoyed a sales increase of 75,372 barrels or 8.2%.

Accounting for the major portion of the total state sales deficit was Anheuser-Busch, whose St. Louis plant slipped 50,130 barrels or 17.5% behind 1953 sales. Second largest volume loss went to Griesedieck Bros., down 153,262 bar-

Respondent's Exhibit 118

rels or 19.2%, while the third largest decrease—95,051 barrels or 20.2%—belonged to Carling which took over Griesedieck Western on November 1, 1954.

Also recording lower sales were Goetz, down 71,940 barrels or 12.7%, Muchlebach, down 24,583 barrels or 12.7%, and Fischbach, down 277 barrels or 4.5%.

Sharp Drop in Outstate Sales

Both instate and outstate sales contributed to the general decrease in total sales sustained by Missouri breweries last year, the state report disclosed. On a percentage and volume basis, instate sales of 1,833,845 barrels made a better showing—being down only 13,331 barrels or 0.7% from 1953. Outstate sales of 5,317,752 barrels, on the other hand, dropped 1,207,540 barrels or 18.5%.

For the second straight year, Anheuser-Busch enjoyed top preference among Missourians with total 1954 instate sales of 590,247 barrels—35.5% or 154,513 barrels more than in 1953. Whereas in 1953 Anheuser-Busch led the second highest instate brewery by 25,097 barrels, last year its lead was increased to more than 137,000 barrels, according to tax stamp purchases.

Falstaff, which was on top in the state in 1952, continued in second place in 1954 with instate sales of 453,145 barrels while the Carling-Griesedieck Western combination with 296,800 barrels captured third place from Griesedieck Bros. which sold 277,051 barrels in the state of Missouri.

Needless to say, Anheuser-Busch was far ahead in outstate sales with 3,875,784 barrels, thus accounting for 72.9% of the state's aggregate compared with 76.3% in 1953. Falstaff retained runner-up honors with 540,324 barrels, with Griesedieck Bros. again in third position with 366,189 barrels. Of all the beer sold by Missouri breweries

Respondent's Exhibit 118

in 1954, 74.4% was sold outside the state compared with 77.9% in 1953.

The decline in production of fermented malt beverages by the Missouri brewing industry last year paralleled the sales drop with Falstaff being the only company to enjoy an increase. Falstaff gained 69,411 barrels or 7.0% in production while losses were recorded by Anheuser-Busch (1,066,022 barrels or 18.3%); Griesedieck Bros. (135,304 barrels or 16.2%); Carling-Griesedieck Western (117,455 barrels or 23.0%); Goetz (58,825 barrels or 9.7%); Muehlebach (26,751 barrels or 12.4%); and Fischbach (1,083 barrels or 15.4%).

Beer Shipped In Holds Up

Tax stamp purchases in Missouri last year revealed an increase in shipments of fermented malt beverages from other states. According to money paid for tax stamps, 495,669 barrels of outstate beer and ale were sold in Missouri last year, representing an increase of 2,510 barrels or 0.5% from the amount entering the state in 1953.

Schlitz for the second consecutive year won first place among the shippers with 140,227 barrels in 1954 against 134,822 barrels in 1953. Carling-Griesdieck Western's Illinois brewery retained second place with 112,485 barrels compared to 127,928 the year previous; while Pabst again was third with 75,520 barrels and Falstaff's Omaha plant again was fourth with 50,502 barrels. Together, these four companies accounted for 378,734 barrels or 76.4% of all the beer shipped into Missouri last year compared with a 78.0% ratio in 1953.

Other leading shippers into Missouri last year, according to the tax stamp purchases, were Miller with 30,181 barrels; Hamm's with 27,355 barrels; and Drewrys' Atlas plant with 21,411 barrels.

Respondent's Exhibit 118

PRODUCTION AND SALES OF MISSOURI BREWERIES, 1954 COMPARED WITH 1953

(Figures in barrels of 31 gallons)

	Production 1954	INSTATE SALES 1954	1953	OUTSTATE SALES 1954	1953	TOTAL SALES 1954	1953	Sales Increase or Decrease	% of Increase or Decrease
*Anheuser-Busch	4,776,443	590,247	435,734	3,875,784	4,980,127	4,466,031	5,416,161	— 950,130	—17.5
*Carling (Formerly Griseledick (Western)	393,610	296,800	372,840	81,881	101,892	378,681	474,732	— 96,051	—20.2
*Falstaff	1,053,975	453,145	410,637	540,324	507,460	993,469	918,097	75,372	8.2
Fischbach	5,943	4,775	5,063	1,138	1,127	5,913	6,190	— 277	— 4.5
Goetz	548,397	134,480	160,656	360,533	406,297	495,013	566,953	— 71,940	—12.7
Griseledick Co.	698,682	277,051	385,069	366,189	411,433	643,240	796,502	— 153,262	—19.2
Muehlebach	188,461	77,347	77,177	91,903	116,656	169,250	193,833	— 24,583	—12.7
TOTALS	7,665,511	1,833,845	1,847,176	5,317,752	6,525,292	7,151,597	8,372,468	—1,220,871	—14.6

*Figures for Anheuser-Busch, Carling and Falstaff do not include their plants outside Missouri.
Instate sales based on purchase of tax stamps.

Respondent's Exhibit 119-A/D

St. Louis, Missouri

Beer Advertising in Four Media

Brand	Newspaper	Outdoor	Radio	Television	4-Media Total
(Network & Non-Network)					
— 1 9 5 3 —					
Heuser-Busch, Inc.					
Jan.	\$ 680	\$ 4,260	—	—	\$ 4,940
Feb.	—	4,260	—	—	4,260
March	—	4,260	—	—	4,260
April	2,890	4,260	—	—	7,150
May	1,345	4,260	—	—	5,605
June	2,369	4,567	—	\$ 1,697	8,633
July	4,399	6,892	—	3,297	14,588
Aug.	2,303	6,892	—	3,297	12,492
Sept.	6,073	6,892	—	3,297	16,262
Oct.	1,028	4,760	\$ 2,001	2,205	9,994
Nov.	128	4,760	2,948	2,205	10,041
Dec.	3,850	4,760	2,948	2,205	13,763
Total	\$25,065	\$ 60,823	\$ 7,897	\$ 18,203	\$111,988
Staff					
Jan.	\$ 3,756	\$ 9,535	—	\$ 11,893	\$ 25,184
Feb.	4,369	9,535	\$ 113	9,698	23,715
March	4,770	9,535	488	12,485	27,278
April	6,785	9,535	11,775	11,013	39,108
May	4,370	9,535	17,100	9,906	40,911
June	5,077	9,835	17,175	17,314	49,401
July	3,602	9,835	17,875	17,208	48,520
Aug.	3,892	9,835	16,338	20,514	50,579
Sept.	3,960	9,835	16,650	21,846	52,291
Oct.	4,822	9,835	4,688	22,770	42,115
Nov.	4,371	9,835	3,750	18,199	36,155
Dec.	4,765	9,835	3,488	24,700	42,788
Total	\$54,539	\$116,520	\$109,440	\$197,546	\$478,045

Respondent's Exhibit 119

<i>Brand</i>	<i>Newspaper</i>	<i>Outdoor</i>	<i>Radio</i>	<i>Television</i>	
(Network & Non-Network)					
— 1953 (Continued) —					
Grusselick Bros.					
Jan.	\$ 2,040	\$ 6,618	\$ 4,578	\$ 9,267	\$ 22,503
Feb.	3,805	6,600	4,489	8,248	19,142
March	4,470	6,600	6,266	7,978	25,214
April	4,855	6,618	12,732	9,941	34,146
May	5,455	6,618	21,696	8,800	36,569
June	7,480	6,618	17,991	7,698	39,787
July	7,480	6,618	14,970	11,161	39,237
Aug.	7,480	6,423	9,952	9,347	33,102
Sept.	7,577	6,568	14,736	7,659	36,530
Oct.	6,403	6,546	5,371	15,556	27,876
Nov.	8,456	6,546	4,881	9,723	29,606
Dec.	5,594	6,546	3,978	8,142	24,260
Total	\$71,095	\$ 78,919	\$121,640	\$112,928	\$384,582
(1143)					
Hyde Park "75"					
Jan.	—	\$ 1,833	—	—	\$ 1,833
Feb.	—	1,833	—	—	1,833
March	—	1,833	—	—	1,833
April	—	1,833	—	—	1,833
May	—	1,833	—	—	1,833
June	—	1,833	—	—	1,833
July	—	1,833	—	—	1,833
Aug.	—	1,833	—	—	1,833
Sept.	—	1,833	—	—	1,833
Oct.	—	1,833	—	—	1,833
Nov.	—	1,833	—	—	1,833
Dec.	—	1,833	—	—	1,833
Total	—	\$ 21,996	—	—	\$ 21,996
Stag					
Jan.	\$ 1,090	\$ 7,881	—	\$ 22,136	\$ 31,107
Feb.	244	7,927	—	15,172	23,343
March	82	7,801	—	16,877	24,760
April	969	7,801	—	18,119	26,890
May	3,602	7,801	—	18,147	29,550
June	—	7,801	—	22,200	30,001
July	1,337	7,801	—	20,441	29,579
Aug.	2,417	7,801	—	21,292	31,510
Sept.	1,561	7,801	—	16,756	26,118
Oct.	—	7,857	—	20,011	27,868
Nov.	491	7,857	\$ 11,100	15,456	34,904
Dec.	4,874	7,901	13,875	12,633	39,283
Total	\$16,667	\$ 94,030	\$ 24,975	\$219,290	\$354,962

Respondent's Exhibit 119

Print	Newspaper	Outdoor	Radio	Television	4-Media Total
(Network & Non-Network)					
— 1954 —					
Lenser-Busch, Inc.					
Jan.	\$ 7,849	\$ 4,792	\$ 9,970	\$ 1,757	\$ 24,368
Feb.	7,728	4,792	9,970	1,757	24,247
March	7,328	4,792	9,970	—	22,090
April	3,838	4,450	14,540	11,271	34,099
May	302	4,450	14,540	11,271	30,563
June	4,621	4,450	14,540	11,271	34,882
July	15,387	5,234	21,359	26,652	68,632
Aug.	11,634	5,234	21,359	26,652	64,879
Sept.	906	5,234	21,359	26,652	54,151
Oct.	65	20,678	12,059	14,672	47,474
Nov.	—	20,678	12,059	14,672	47,409
Dec.	478	20,678	12,059	14,672	47,887
Total	\$ 60,136	\$105,462	\$173,784	\$161,299	\$500,681
staff					
Jan.	\$ 6,734	\$ 9,915	\$ 5,139	\$ 21,931	\$ 43,689
Feb.	10,826	9,915	4,287	18,881	43,909
March	9,041	9,915	4,955	19,470	43,381
April	9,421	9,915	4,757	18,643	42,736
May	6,170	9,915	4,401	18,748	39,234
June	3,180	9,915	4,401	18,275	35,771
July	3,289	9,915	5,205	18,403	36,812
Aug.	7,570	9,915	4,400	18,615	40,500
Sept.	6,998	9,915	4,400	18,114	39,427
Oct.	8,715	11,074	4,747	17,815	42,351
Nov.	9,772	11,074	4,400	18,118	43,364
Dec.	4,388	11,074	5,139	19,017	39,618
Total	\$ 86,104	\$122,457	\$ 56,231	\$226,000	\$490,792
Resulick Bros.					
Jan.	—	\$ 5,490	\$ 7,700	\$ 6,504	\$ 19,694
Feb.	—	7,221	8,065	6,356	21,642
March	\$ 31,283	5,367	4,432	6,800	47,882
April	28,337	5,390	5,896	7,182	46,805
May	31,139	5,425	11,812	7,693	56,069
June	15,114	5,440	6,339	7,073	33,966
July	9,120	5,440	4,330	7,503	26,393
Aug.	19,434	5,440	2,994	7,879	35,707
Sept.	21,381	9,315	5,514	8,008	44,218
Oct.	3,284	5,440	1,651	7,149	17,524
Nov.	—	5,440	—	7,013	12,453
Dec.	—	5,440	3,000	7,988	16,428
Total	\$159,092	\$ 70,848	\$ 61,733	\$ 87,108	\$378,781

Respondent's Exhibit 119

<i>Brand</i>	<i>Newspaper</i>	<i>Outdoor</i>	<i>Radio</i>	<i>Television</i>	<i>4-Me</i> <i>7-10</i>
(Network & Non-Network)					
— 1954 (Continued) —					
(1145)					
Stag					
Jan.	—	\$ 4,000	\$ 3,625	\$ 10,783	\$ 4,418
Feb.	—	4,000	3,700	9,517	17,217
March	—	4,094	3,700	8,944	26,715
April	\$ 3,212	4,068	3,625	9,379	23,284
May	3,598	4,124	3,700	10,883	22,325
June	4,017	4,860	3,700	10,386	22,963
July	—	4,897	3,625	11,898	20,318
Aug.	—	4,897	3,700	13,630	22,224
Sept.	—	4,897	3,700	4,488	13,562
Oct.	—	4,674	3,625	11,950	20,249
Nov.	6,350	4,897	—	9,860	21,107
Dec.	2,138	4,897	—	9,900	18,935
Total	\$ 19,325	\$ 54,305	\$ 36,700	\$121,618	\$211,448
Carling's					
Jan.	—	—	—	—	—
Feb.	—	—	—	—	—
March	—	—	—	—	—
April	—	—	—	—	—
May	—	—	—	—	—
June	—	—	—	—	—
July	—	—	—	—	—
Aug.	—	—	—	—	—
Sept.	—	—	—	—	—
Oct.	—	—	—	—	—
Nov.	—	—	\$ 2,400	—	\$ 14,140
Dec.	—	—	3,500	—	15,350
Total	—	—	\$ 5,900	—	\$ 29,490

Respondent's Exhibit 120-A/S

ADVERTISING EXPENDITURES

By Anheuser-Busch, Inc. and Various Other Brewers
in Some Selected Cities

Brand	Newspaper	Outdoor	Radio	Television	4-Media Total
(Network & Non-Network)					
WASHINGTON, D. C.					
Anheuser-Busch, Inc.					
Year 1953	\$ 34,951	\$ 2,568	\$ 2,251	—	\$ 39,770
Year 1954	17,585	6,344	6,092	\$ 4,341	34,362
Other					
Year 1953	53,000	—	24,000	173,000	250,000
Year 1954	59,000	—	38,000	186,000	283,000
Sley Forge					
Year 1953	18,000	5,000	25,000	84,000	132,000
Year 1954	26,000	5,000	28,000	48,000	107,000
DETROIT, MICHIGAN					
Anheuser-Busch, Inc.					
Year 1953	70,860	45,852	3,754	—	120,466
Year 1954	40,450	55,633	13,365	—	115,448
Pfeiffer's					
Year 1953	32,000	84,000	24,000	157,000	297,000
Year 1954	59,000	89,000	40,000	312,000	500,000
Rock					
Year 1953	150,000	66,000	7,000	—	223,000
Year 1954	202,000	91,000	56,000	137,000	486,000

Respondent's Exhibit 120

ADVERTISING EXPENDITURES

Brand	Newspaper	Outdoor	Radio	Television
(Network & Non-Network)				
ST. LOUIS, MISSOURI				
<i>Anheuser-Busch, Inc.</i>				
Year 1953	24,860	60,823	7,897	18,264
Year 1954	59,923	108,463	173,785	161,301
<i>Falstaff</i>				
Year 1953	55,000	117,000	109,000	201,000
Year 1954	86,000	123,000	56,000	226,000
<i>Stag</i>				
Year 1953	17,000	94,000	25,000	219,000
Year 1954	19,000	54,000	36,000	123,000

(1147)

LOS ANGELES, CALIFORNIA

<i>Anheuser-Busch, Inc.</i>				
Year 1953	\$ 86,845	\$134,313	\$ 3,707	—
Year 1954	89,908	236,564	16,270	—
<i>Lucky Lager</i>				
Year 1953	34,000	148,000	140,000	\$100,000
Year 1954	49,000	274,000	103,000	116,000
<i>Burgermeister</i>				
Year 1953	14,000	108,000	182,000	140,000
Year 1954	26,000	147,000	153,000	116,000

Respondent's Exhibit 120

ADVERTISING EXPENDITURES

Brand	Newspaper	Outdoor	Radio	Television	4-Media Total
CLEVELAND					
C. Pilsener					
Year 1953	\$ 4,183	\$ 77,870	\$ 41,890	\$ 92,697	\$216,640
8 Mos. 1954	3,553	71,215	33,092	68,740	176,600
Coelster					
Year 1953	32,837	21,420	7,837	—	62,094
8 Mos. 1954	15,553	22,320	10,692	25,877	74,442
INDIANAPOLIS					
Edmann					
Year 1953	\$ 61,436	\$ 8,223	\$ 7,470	\$ 63,918	\$141,047
8 Mos. 1954	34,666	4,248	2,279	27,076	68,269
Coelster					
Year 1953	25,855	7,200	2,049	—	35,104
8 Mos. 1954	2,609	3,600	15,149	—	21,358
MEMPHIS					
Coelster					
Year 1953	—	\$ 16,096	\$170,266	\$166,174	\$352,536
8 Mos. 1954	\$ 3,360	11,711	59,749	104,787	179,607
Coelster					
Year 1953	20,155	9,505	5,237	—	34,897
8 Mos. 1954	7,535	6,667	9,748	1,912	25,862
HOUSTON					
Coelster					
Year 1953	\$ 6,793	\$ 26,403	\$134,435	\$117,409	\$285,070
8 Mos. 1954	6,581	28,268	46,426	106,842	188,117
Coelster					
Year 1953	8,301	28,794	104,494	—	141,589
8 Mos. 1954	15,483	28,617	81,467	—	125,567

Respondent's Exhibit 120

(1149)

ADVERTISING EXPENDITURES

<i>Brand</i>	<i>Newspaper</i>	<i>Outdoor</i>	<i>Radio</i>	<i>Television</i>	<i>4-Me. Tot.</i>
(Network & Non-Network)					

BALTIMORE, MARYLAND

(2 TV Stations did not report)

Anheuser-Busch, Inc.

Year 1953	\$ 22,610	\$ 22,072	\$ 2,814	—	\$ 47,496
Year 1954	14,111	26,297	9,349	—	49,757

National

Year 1953	61,000	60,000	4,000	\$104,000#	229,000
Year 1954	26,000	62,000	37,000	108,000#	233,000

Gunther

Year 1953	83,000	63,000	33,000	125,000#	344,000
Year 1954	80,000	68,000	68,000	119,000#	335,000

2 TV Stations did not report.

BOSTON, MASSACHUSETTS

(4 Radio Stations did not report)

Anheuser-Busch, Inc.

Year 1953	\$ 78,129	\$ 69,966	\$ 7,876	—	\$ 155,971
Year 1954	100,721	72,613	11,449	\$ 6,362	191,145

Ruppert

Year 1953	—	54,000	14,000*	116,000	184,000
Year 1954	—	57,000	15,000*	74,000	146,000

* 4 Radio Stations did not report.

*Respondent's Exhibit 120***ADVERTISING EXPENDITURES**

<i>Brand</i>	<i>Newspaper</i>	<i>Outdoor</i>	<i>Radio</i>	<i>Television</i>	<i>4-Media Total</i>
(Network & Non-Network)					
CHICAGO, ILLINOIS					
(6 Radio Stations did not report)					
<i>Heuser-Busch, Inc.</i>					
Year 1953	\$195,862	\$ 99,715	\$ 8,421	—	\$303,998
Year 1954	163,293	160,821	45,307	—	369,421
<i>Master Brew</i>					
Year 1953	200,000	24,000	—*	\$ 83,000	307,000
Year 1954	300,000	24,000	2,000*	169,000	495,000
* 6 Radio Stations did not report.					
50)					
DALLAS, TEXAS					
(4 Radio Stations did not report)					
<i>Heuser-Busch, Inc.</i>					
Year 1953	—	\$ 20,568	—	—	\$ 20,568
Year 1954	\$ 18,910	23,820	\$ 7,747	—	50,477
<i>Perl</i>					
Year 1953	16,000	8,000	21,000*	\$ 94,000	139,000
Year 1954	12,000	9,000	24,000*	83,000	128,000
<i>Staff</i>					
Year 1953	10,000	16,000	75,000*	30,000	131,000
Year 1954	12,000	16,000	41,000*	45,000	114,000
* 4 Radio Stations did not report.					
CLEVELAND, OHIO					
(2 Radio and 1 TV Station did not report)					
<i>Heuser-Busch, Inc.</i>					
Year 1953	36,250	17,560	7,837	—	61,647
Year 1954	34,437	36,411	8,003	7,389	86,240
<i>W.C.</i>					
Year 1953	4,000	78,000	42,000*	93,000#	217,000
Year 1954	8,000	82,000	38,000*	113,000#	241,000
<i>Win Brew</i>					
Year 1953	35,000	30,000	20,000*	—#	85,000
Year 1954	300	32,000	25,000*	90,000#	147,300

* 2 Radio Stations did not report.

1 TV Station did not report.

Respondent's Exhibit 120

ADVERTISING EXPENDITURES

Brand	Newspaper	Outdoor	Radio	Television	
(Network & Non Network)					
MIAMI, FLORIDA					
(1 TV Station did not report)					
<i>Anheuser-Busch, Inc.</i>					
Year 1953	12,892	38,599	—	—	51,491
Year 1954	24,254	43,494	4,446	—	72,194
<i>Regal</i>					
Year 1953	3,000	46,000	3,000	41,000#	93,000
Year 1954	7,000	61,000	7,000	41,000#	116,000

1 TV Station did not report.

(1151)

DES MOINES, IA.

(1 Radio Station did not report)

<i>Anheuser-Busch, Inc.</i>					
Year 1953	—	\$ 12,585	\$ 9,160	\$ —	\$ 21,745
Year 1954	—	16,434	8,983	18,160	43,577
<i>Hamm's</i>					
Year 1953	—	16,000	—*	1,000	17,000
Year 1954	—	16,000	—*	31,000	47,000
<i>Falstaff</i>					
Year 1953	—	18,000	—*	—	18,000
Year 1954	—	18,000	—*	26,000	44,000

* 1 Radio Station did not report.

EAST HARTFORD, CONN.

(3 Radio Stations did not report)

<i>Anheuser-Busch, Inc.</i>					
Year 1953	—	8,442	—	—	8,442
Year 1954	—	9,222	4,550	—	13,772
<i>Ballantine</i>					
Year 1953	8,000	6,000	19,000*	—	33,000
Year 1954	10,000	6,000	24,000*	10,000	50,000
<i>Ruppert</i>					
Year 1953	3,000	17,000	21,000*	5,000	46,000
Year 1954	3,000	17,000	21,000*	6,000	47,000

* 3 Radio Stations did not report.

Respondent's Exhibit 120

ADVERTISING EXPENDITURES

Year	Newspaper	Outdoor	Radio	Television	4-Media Total
(Network & Non-Network)					
b					
FORT WAYNE, INDIANA					
(2 Radio Stations did not report)					
Weyerhaeuser, Inc.					
Year 1953	\$ 6,005	\$ 2,970	—	—	\$ 9,575
Year 1954	3,600	3,240	\$ 2,267	—	9,167
Weyerhaeuser, Inc.					
Year 1953	7,000	7,000	100*	—	14,100
Year 1954	5,000	11,000	200*	\$ 4,000	20,200
Weyerhaeuser, Inc.					
Year 1953	11,000	6,000	1,000*	—	18,000
Year 1954	11,000	8,000	—*	—	19,000
Weyerhaeuser, Inc.					
Year 1953	—	—	—	—	—
(Not introduced until June 1954)					
Year 1954	7,000	10,000	12,000*	29,000	58,000
* 2 Radio Stations did not report.					
LITTLE ROCK, ARKANSAS					
(2 Radio Stations did not report)					
Weyerhaeuser, Inc.					
Year 1953	4,570	8,622	86	2,632	15,910
Year 1954	6,245	8,658	16,707	—	31,610
Weyerhaeuser, Inc.					
Year 1953	100	5,000	1,000*	—	6,100
Year 1954	2,000	5,000	17,000*	3,000	27,000
Weyerhaeuser, Inc.					
Year 1953	2,000	5,000	—*	100	7,100
Year 1954	1,000	5,000	—*	8,000	14,000
* 2 Radio Stations did not report.					
KANSAS CITY, MO.					
(2 TV Stations did not report)					
Weyerhaeuser, Inc.					
Year 1953	\$ 1,149	\$ 30,589	\$ 34,038	\$ 1,108	\$ 66,884
Year 1954	190	49,604	23,305	18,068	91,167
Country Club					
Year 1953	—	63,000	47,000	7,000#	117,000
Year 1954	—	68,000	—	117,000#	185,000
Weyerhaeuser, Inc.					
Year 1953	—	18,000	71,000	—#	89,000
Year 1954	—	24,000	68,000	6,000#	98,000
# 2 TV Stations did not report.					

Respondent's Exhibit 120

ADVERTISING EXPENDITURES

Brand	Newspaper	Outdoor	Radio	Television	
(Network & Non Network)					
KNOXVILLE, TENN.					
(2 Radio and 1 TV Station did not report)					
<i>Anheuser-Busch, Inc.</i>					
Year 1953	5,630	8,070	—	—	137
Year 1954	3,854	8,060	2,667	—	143
<i>Stag</i>					
Year 1953	3,000	3,000	10,000*	—#	16
Year 1954	1,000	3,000	11,000*	—#	17
<i>Champagne Velvet</i>					
Year 1953	8,000	5,000	—*	—#	15
Year 1954	9,000	3,000	—*	—#	12

* 2 Radio Stations did not report.

1 TV Station did not report.

(1154)

MOBILE, ALABAMA

(1 Radio Station did not report)

<i>Anheuser-Busch, Inc.</i>					
Year 1953	\$ 5,448	\$ 4,816	—	—	130
Year 1954	3,844	5,310	\$ 2,428	—	113
<i>Falstaff</i>					
Year 1953	1,000	11,000	33,000*	—	5
Year 1954	2,000	12,000	21,000*	—	5
<i>Jax</i>					
Year 1953	5,000	12,000	16,000*	—	11
Year 1954	8,000	13,000	23,000*	—	4

* 1 Radio Station did not report.

NEW ORLEANS, LOUISIANA

(6 Radio and 2 TV Stations did not report)

<i>Anheuser-Busch, Inc.</i>					
Year 1953	15,210	43,581	—	—	47
Year 1954	15,467	43,952	4,856	—	47
<i>Falstaff</i>					
Year 1953	—	30,000	129,000*	\$ 27,000#	10
Year 1954	11,000	30,000	87,000*	53,000#	10
<i>Jax</i>					
Year 1953	32,000	26,000	40,000*	—#	10
Year 1954	32,000	26,000	51,000*	—#	10

* 6 Radio Stations did not report.

2 TV Stations did not report.

Respondent's Exhibit 120

ADVERTISING EXPENDITURES

Brand	Newspaper	Outdoor	Radio	Television	4-Media Total
(Network & Non-Network)					
(5) NEW YORK, N. Y.					
(1953: 1 Radio and 2 TV Stations did not report.)					
(1954: 7 Radio and 5 TV Stations did not report.)					
Heuser-Busch, Inc.					
Year 1953	\$ 132,620	\$211,597	\$ 15,655	—	\$ 359,872
Year 1954	166,612	235,795	38,397	\$ 17,114	457,918
Longold					
Year 1953	\$1,583,000	361,000	352,000*	194,000#	2,490,000
Year 1954	2,176,000	318,000	215,000*	4,000#	2,713,000
Lentine					
Year 1953	415,000	154,000	501,000*	162,000#	1,232,000
Year 1954	702,000	111,000	193,000*	1,007,000#	2,013,000
* 1953: 1 Radio Station did not report.					
1954: 7 Radio Stations did not report.					
# 1953: 2 TV Stations did not report.					
1954: 5 TV Stations did not report.					
OMAHA, NEBRASKA					
(2 Radio and 1 TV Station did not report.)					
Heuser-Busch, Inc.					
Year 1953	4,378	16,196	—	—	20,574
Year 1954	3,684	14,672	46,876	8,062	73,294
Lent					
Year 1953	23,000	18,000	31,000*	11,000#	83,000
Year 1954	12,000	18,000	27,000*	40,000#	97,000
Lent					
Year 1953	10,000	21,000	43,000*	23,000#	97,000
Year 1954	11,000	21,000	19,000*	42,000#	93,000
* 2 Radio Stations did not report.					
# 1 TV Station did not report.					
(56) PEORIA, ILLINOIS					
(1 Radio Station did not report.)					
Heuser-Busch, Inc.					
Year 1953	\$ 4,640	\$ 7,966	—	—	\$ 12,606
Year 1954	3,435	8,403	\$ 25,594	—	37,432
Lent					
Year 1953	—	5,000	—*	\$ 16,000	21,000
Year 1954	—	5,000	—*	31,000	36,000
Lent					
Year 1953	2,000	7,000	—*	25,000	34,000
Year 1954	2,000	7,000	—*	17,000	26,000
* 1 Radio Station did not report.					

Respondent's Exhibit 120

ADVERTISING EXPENDITURES

Brand	Newspaper	Outdoor	Radio	Television	
(Network & Non-Network)					
PHILADELPHIA, PENNSYLVANIA					
(5 Radio and 2 TV Stations did not report.)					
<i>Anheuser-Busch, Inc.</i>					
Year 1953	59,768	31,617	—	—	0.8
Year 1954	26,763	33,933	9,648	26,650	6.3
<i>Schmidt's</i>					
Year 1953	85,000	74,000	14,000*	80,000±	31
Year 1954	70,000	74,000	12,000*	86,500±	42
<i>Ortlich</i>					
Year 1953	55,000	87,000	43,000*	15,000±	8
Year 1954	43,000	87,000	41,000*	27,000±	8
* 5 Radio Stations did not report.					
± 2 TV Stations did not report.					
(1157)					
PITTSBURGH, PENNSYLVANIA					
(1 Radio and 1 TV Station did not report.)					
<i>Anheuser-Busch, Inc.</i>					
Year 1953	\$ 26,400	\$ 57,412	—	—	\$ 1.8
Year 1954	18,020	64,164	\$ 10,229	\$ 9,978	2
<i>Iron City</i>					
Year 1953	12,000	103,000	32,000*	—±	7
Year 1954	11,000	105,000	23,000*	—±	5.0
<i>Dupresne</i>					
Year 1953	31,000	197,000	34,000*	—±	17.0
Year 1954	48,000	202,000	57,000*	—±	17.0
* 1 Radio Station did not report.					
± 1 TV Station did not report.					
PROVIDENCE, RHODE ISLAND					
(1 Radio Station did not report.)					
<i>Anheuser-Busch, Inc.</i>					
Year 1953	9,041	19,350	1,491	—	2
Year 1954	10,786	26,746	5,097	6,127	2.7
<i>Narragansett</i>					
Year 1953	—	—	3,000*	33,000	1.0
Year 1954	—	4,000	6,000*	36,000	4.0
<i>Hanley</i>					
Year 1953	11,000	1,000	1,000*	—	1
Year 1954	12,000	4,000	6,000*	—	1
* 1 Radio Station did not report.					

Respondent's Exhibit 120

ADVERTISING EXPENDITURES

Brand	Newspaper	Outdoor	Rad ^y	Television	4-Media Total
(Network & Non-Network)					
(58)					
RICHMOND, VIRGINIA					
(1 Radio Station did not report)					
Heuser-Busch, Inc.					
Year 1953	\$ 14,450	—	—	—	\$ 14,450
Year 1954	12,325	—	\$ 3,557	—	15,882
Libran					
Year 1953	9,000	—	140,000*	\$ 40,000	189,000
Year 1954	10,000	—	149,000*	40,000	199,000
ional Bohemian					
Year 1953	200	—	1,000*	26,000	27,200
Year 1954	200	—	1,000*	30,000	31,200
* 1 Radio Station did not report.					
(59)					
SAN ANTONIO, TEX.					
(4 Radio Stations did not report)					
Heuser-Busch, Inc.					
Year 1953	\$ —	\$ 11,880	\$ —	\$ —	\$ 11,880
Year 1954	15,234	14,040	5,105	—	34,379
The Star					
Year 1953	6,000	11,000	48,000*	97,000	162,000
Year 1954	4,000	11,000	62,000*	97,000	174,000
The Star					
Year 1953	14,000	27,000	54,000*	108,000	203,000
Year 1954	9,000	31,000	56,000*	108,000	204,000
The Staff					
Year 1953	8,000	21,000	44,000*	108,000	181,000
Year 1954	6,000	24,000	31,000*	123,000	184,000
* 4 Radio Stations did not report					
TAMPA, FLA.					
(1 Radio Station did not report)					
Heuser-Busch, Inc.					
Year 1953	9,658	8,568	—	—	18,226
Year 1954	9,171	11,658	3,557	—	24,386
The Bar Ale					
Year 1953	8,000	16,000	16,000*	20,000	60,000
Year 1954	1,000	17,000	17,000*	7,000	42,000
Tropical					
Year 1953	4,000	15,000	11,000*	43,000	73,000
Year 1954	—	16,000	13,000*	42,000	71,000
* 1 Radio Station did not report.					

Respondent's Exhibit 120

ADVERTISING EXPENDITURES

Period	Newspaper	Outdoor	Radio	Television	
(Network & Non-Network)					
(1160)	KEARNY, N. J.				
<i>Anheuser-Busch, Inc.</i>					
Year 1953	\$ 32,221	\$114,894	—	—	\$147,115
Year 1954	33,485	137,838	—	\$ 7,175	140,663
<i>Schaeffer</i>					
Year 1953	40,000	200	—	—	40,200
Year 1954	50,000	200	—	—	50,200
<i>Rheingold</i>					
Year 1953	373,000	400	—	—	373,400
Year 1954	427,000	400	—	—	427,400

EAST CHICAGO, INDIANA

<i>Anheuser-Busch, Inc.</i>					
Year 1953	3,710	1,560	—	—	5,270
Year 1954	3,168	3,134	—	—	6,302
<i>Greengrass</i>					
Year 1953	3,000	4,000	—	—	7,000
Year 1954	3,000	4,000	—	—	7,000
<i>Lech's</i>					
Year 1953	4,000	4,000	—	—	8,000
Year 1954	5,000	4,000	—	—	9,000
(1161)					

ATLANTA, GEORGIA

(1 Radio and 1 TV Station did not report)

<i>Anheuser-Busch, Inc.</i>					
Year 1953	\$ 25,850	\$ 17,431	\$ 10,094	\$ 4,907	\$ 58,282
Year 1954	14,689	16,006	5,335	—	36,030
<i>Campagne Velvet</i>					
Year 1953	—	—	10,000*	—#	10,000
Year 1954	300	5,000	12,000*	—#	17,300

* 1 Radio Station did not report.

1 TV Station did not report.

Respondent's Exhibit 120

ADVERTISING EXPENDITURES

Radio	Newspaper	Outdoor	Radio	Television	4-Media Total
(Network & Non Network)					

JACKSON, MISSISSIPPI

(2 Radio and 1 TV Station did not report)

<i>Walter-Bullock, Inc.</i>					8,947
Year 1953	5,467	3,480	—	—	9,204
Year 1954	2,894	3,480	2,890	—	
<i>WJLH</i>					45,000
Year 1953	—	10,000	27,000*	8,000#	40,000
Year 1954	2,000	10,000	14,000*	14,000#	
Year 1953	8,000	10,000	4,000*	—#	22,000
Year 1954	8,000	10,000	4,000*	—#	22,000

* 2 Radio Stations did not report.

1 TV Station did not report.

CHARLESTON, S. C.

(2 Radio and 1 TV Station did not report)

<i>Walter-Bullock, Inc.</i>					6,400
Year 1953	4,000	2,400	—	—	6,307
Year 1954	2,128	2,400	1,779	—	
<i>WCHL</i>					—
Year 1953	—	—	—*	—#	—
Year 1954	—	—	—*	—#	—

* 2 Radio Stations did not report.

1 TV Station did not report.

JACKSONVILLE, FLORIDA

(1 Radio Station did not report)

<i>Walter-Bullock, Inc.</i>					\$ 26,377
Year 1953	\$ 2,835	\$ 23,542	—	—	56,158
Year 1954	6,997	26,790	\$ 3,557	\$ 18,814	
Year 1953	8,000	4,000	2,000*	—	14,000
Year 1954	9,000	4,000	2,000*	11,000	26,000

* 1 Radio Station did not report.

*Respondent's Exhibit 120***ADVERTISING EXPENDITURES**

<i>Brand</i>	<i>Newspaper</i>	<i>Outdoor</i>	<i>Radio</i>	<i>Television</i>	
(Network & Non-Network)					

BIRMINGHAM, ALABAMA

(5 Radio and 1 TV Station did not report)

Anheuser-Busch, Inc.

Year 1953	16,740	9,355	—	—	\$10,000
Year 1954	11,327	13,258	21,731	—	\$10,000

Sterling

Year 1953	14,000	12,000	6,000*	19,000#	\$10,000
Year 1954	23,000	12,000	2,000*	19,000#	\$10,000

Burger

Year 1953	—	8,000	1,000*	—#	\$10,000
Year 1954	5,000	6,000	—*	—#	\$10,000

* 5 Radio Stations did not report.

1 TV Station did not report.

(1163)

WICHITA, KANSAS

(1 TV Station did not report)

Anheuser-Busch, Inc.

Year 1953	\$ 11,731	\$ 11,700	—	—	\$13,000
Year 1954	—	11,040	\$ 18,577	\$ 4,336	\$13,000

Country Club

Year 1953	9,000	5,000	—	—#	\$10,000
Year 1954	—	9,000	—	—#	\$10,000

Hamm's

Year 1953	600	4,000	17,000	—#	\$20,000
Year 1954	500	4,000	—	11,000#	\$20,000

1 TV Station did not report.

NORFOLK, VIRGINIA

(2 Radio and 1 TV Station did not report)

Anheuser-Busch, Inc.

Year 1953	13,360	—	—	—	\$20,000
Year 1954	10,932	—	3,557	1,231	\$20,000

National Bohemian

Year 1953	—	—	—*	27,000#	\$20,000
Year 1954	100	—	4,000*	18,000#	\$20,000

* 2 Radio Stations did not report.

1 TV Station did not report.

Respondent's Exhibit 120

(1164)

SOURCES AND METHODS USED

Newspapers (Source: Each newspaper in the cities involved.) The expenditures are for space costs only.

Outdoor (Source: Each outdoor plant operator in the cities involved.) The expenditures are for posting, bulletin and spectacular space only.

Network Radio and Network Television (Source: Publishers Information Bureau) Expenditures are based on gross time rates before discounts except that contiguous rates are used where applicable. Estimated talent and production costs are included in the figures.

Spot Radio and Spot Television (Source: The radio and television stations located in the cities involved. TV Rorabaugh Reports and Spot Radio Reports.) The expenditures include time charges and estimated talent and production costs.

(Anheuser-Busch expenditures were taken from D'Arcy records.)

Respondent's Exhibit 122

TEXAS BEER SALES IN BARRELS

	Year 1954	% to Tot.	Year 1953	% to Tot.	Year 1952	% to Tot.	Year 1951	% to Tot.	Year 1950	% to Tot.	Year 1949	% to Tot.	Year 1948	% to Tot.
Guil	836,696	19.8	771,256	18.2	678,876	16.2	608,618	14.5	518,596	13.3	393,066	11.1	433,656	12
Guilaff	793,700	18.8	773,804	18.2	756,101	18.1	825,468	19.7	790,205	20.3	844,985	24.0	634,995	18
Leg Star	670,477	15.9	581,162	13.7	503,150	12.0	453,391	10.8	353,962	9.1	259,152	7.4	195,503	5
Mason	550,215	13.0	501,928	11.8	403,924	9.7	350,229	8.4	332,240	8.5	264,665	7.5	152,541	4
Natz	350,949	8.3	377,362	8.9	495,228	11.8	489,236	11.7	457,943	11.7	373,460	10.6	307,610	9
Seuwer	234,400	5.5	321,943	7.6	300,249	7.2	302,217	7.2	277,663	7.1	261,626	7.4	247,638	7
Land Prize	214,416	5.1	264,765	6.2	295,381	7.1	358,705	8.6	390,108	10.0	289,420	8.2	386,568	11
Western Select	193,805	4.6	222,752	5.2	264,020	6.3	299,218	7.1	311,300	8.0	362,937	10.3	458,218	13
West	44,416	1.0	94,812	2.2	102,026	2.4	146,127	3.5	140,576	3.6	180,220	5.1	168,789	5
Whelebach	29,332	.7	42,541	1.0	56,090	1.3	64,454	1.5	68,821	1.8	77,440	2.2	45,222	1
Others	309,667	7.3	295,220	7.0	326,222	7.8	293,315	7.0	257,881	6.6	218,095	6.2	323,498	9
TOTAL BREWING INDUSTRY	4,228,073	100.0	4,247,545	100.0	4,181,267	100.0	4,190,978	100.0	3,899,295	100.0	3,525,066	100.0	3,354,238	100

ent's Exhibit 122

SALES IN BARRELS

	<i>Year</i> <i>1954</i>	<i>%</i> <i>to</i> <i>Tot.</i>	<i>Year</i> <i>1950</i>	<i>%</i> <i>to</i> <i>Tot.</i>	<i>Year</i> <i>1949</i>	<i>%</i> <i>to</i> <i>Tot.</i>
	836,696	14.5	518,596	13.3	393,066	11.1
	793,700	19.7	790,205	20.3	844,985	24.0
	670,477	10.8	353,962	9.1	259,152	7.4
	550,215	8.4	332,240	8.5	264,665	7.5
	350,949	11.7	457,943	11.7	373,460	10.6
	234,400	7.2	277,663	7.1	261,626	7.4
	214,416	8.6	390,108	10.0	289,420	8.2
	193,805	7.1	311,300	8.0	362,937	10.3
	44,416	3.5	140,576	3.6	180,220	5.1
	29,332	1.5	68,821	1.8	77,440	2.2
	309,667	7.0	257,881	6.6	218,095	6.2
INDUSTRY	4,228,073	100.0	3,899,295	100.0	3,525,066	100.0

	<i>Year</i> <i>1948</i>	<i>%</i> <i>to</i> <i>Tot.</i>	<i>Year</i> <i>1947</i>	<i>%</i> <i>to</i> <i>Tot.</i>	<i>Year</i> <i>1946</i>	<i>%</i> <i>to</i> <i>Tot.</i>
1	433,656	12.9	421,355	12.8		
0	634,995	18.9	383,112	11.7		
4	195,503	5.8	176,803	5.4		
5	152,541	4.6	108,162	3.3		
6	307,610	9.2	257,913	7.8	140,909	5.4
4	247,638	7.4	273,620	8.3	245,632	9.5
2	386,568	11.5	484,933	14.7		
3	458,218	13.7	455,923	13.9		
1	168,789	5.0	131,896	4.0	83,900	3.2
2	45,222	1.4	81,959	2.5		
2	323,498	9.6	513,339	15.6		
0	3,354,238	100.0	3,289,015	100.0	2,594,504	100.0

Budweiser - Falstaff P
 All States in which both Budw

BUDWEISER

<i>State</i>	1954		1953	
	<i>Volume</i>	<i>% Var. over 1953</i>	<i>Volume</i>	<i>% Var.</i>
1 Alabama	1,075,043Cs	—23.0	1,396,501Cs	
2 Arkansas	723,584Cs	—26.6	986,140Cs	
3 Iowa	1,005,313Cs	—12.1	1,143,222Cs	
4 Kansas	717,266Cs	—11.6	811,580Cs	
5 Mississippi	552,063Cs	—13.9	640,839Cs	
6 Missouri	5,707,071Cs	+68.9	3,379,008Cs	
7 Nebraska	462,947Cs	—13.6	535,945Cs	
8 Nevada	19,184B/E	—20.5	24,123B E	
9 Tennessee*	105,897B/E	—12.5	120,922B E	
10 Texas	2,407,711Cs	—29.1	3,395,976Cs	

LEGEND—SOURCE OF INFORMATION

- 1 The Birmingham News—Birmingham Post-Herald
- 2 Arkansas Division—United States Brewers Foundation
- 3 Iowa Daily Press Association Monthly Report
- 4 Kansas State Commission of Revenue & Taxation—Office of Director Alcoholic
- 5 Mississippi Division—United States Brewers Foundation
- 6 Missouri Brewers Assn.
- 7 Nebraska Beer Wholesalers Assn.
- 8 Capital Service Co.
- 9 Tennessee Division—United States Brewers Foundation
- 10 N. A. Saner Co. *

* Total Beer B/E

ff Package Beer Sales—1953-1954

Budweiser and Falstaff Figures Are Available

FALSTAFF

1953		1954		1953	
% Var. over 1952	Volume	% Var. over 1953	Volume	% Var. over 1952	
+ 4.6	988,008Cs	+ 9.5	902,658Cs	+27.9	
+19.1	968,889Cs	+11.5	869,116Cs	+15.3	
+10.6	1,201,325Cs	+ 1.8	1,179,820Cs	+ 2.1	
+10.5	344,601Cs	+ 4.5	329,776Cs	+28.4	
+ 6.6	1,551,717Cs	+ 9.6	1,416,032Cs	+15.7	
+32.5	6,168,289Cs	+10.2	5,595,396Cs	+21.6	
+18.6	441,991Cs	+ 7.5	411,230Cs	+21.8	
+32.0	5,390B/E	—	0	—	
+ 8.8	143,612B/E	+23.4	116,410B/E	+21.4	
+ 8.6	10,809,945Cs	+ 2.2	10,575,241Cs	+ 2.1	

holic Beverage Control

Respondent's Exhibit 125

(1169)

[INTER-OFFICE LETTERHEAD OF]
ANHEUSER-BUSCH, INC.

Mr. W. J. Shine
J. E. Barsi

January 18, 1954

As you know, Mr. Flanigan requested the St. Louis office to make a survey on the 11-oz. bottles in portions of his Region to ascertain whether a sales advantage could be obtained if we were to produce such a package.

I suggest that you confer with Mr. Flanigan and decide on a course of action, the approximate starting date and the completion date for this survey.

Will you please keep me advised.

JEB

J. E. Barsi

cc: Messrs. August A. Busch, Jr.
A. von Gontard
J. Flanigan

Excerpts From Respondent's Exhibit 130

* * *

The 1949 figure for "grocery" stores, which included both types, totalled 39.9%.

* * *

Taverns show a slight loss as a source of packaged beer and ale for home consumption. A drop of 25.6% to 21.2% in the past five years is indicated.

* * *

(1246)

Place Of Purchase Of Beer or Ale For Home Consumption

Grocery Store	51.3%
Liquor Store	21.9%
Tavern	21.2%
Delicatessen	3.5%
Miscellaneous Others	14.9%

* * *

Excerpts From Respondent's Exhibit 131

(1308)

B E E R R E P O R T

1 9 5 3

*Published by*THE AMERICAN
MAGAZINE

(1310)

• • •

The beer tables in this report have been compiled basically from The American Brewers Statistical Tables and the Alcohol and Tobacco Tax Division Reports of the U. S. Bureau of Internal Revenue. In addition, the consumption data has been adjusted through estimates worked out by Mr. Benjamin W. Corrado and Staff.

• • •

(1311)

Most beer is consumed in the home

<i>Place of Consumption</i>	<i>% of Total Beer Consumption</i>
At Own Homes, Other Homes, Picnics, Etc.	71.4%
In Taverns, Bars, Restaurants	28.6%

• • •

Source: 1949 Crossley Study for U. S. Brewers Foundation

*Excerpts From Respondent's Exhibit 131***packaged beer sales are on the increase**

<i>Year</i>	<i>Packaged Beer Tax-Paid (% of Total)</i>	<i>Draught Beer Tax-Paid (% of Total)</i>
1952	74.7%	25.3%
1951	73.6%	26.4%
1950	71.8%	28.2%
1949	70.3%	29.7%

Source. Calculated from ATTD reports.

most packaged beer is sold in food stores

<i>Type of Food Store</i>	<i>Packaged Beer Sales (% of Total)</i>
Groceries	23%
Supermarkets, Chains	23%
Delicatessens	6%
<i>Type of Other Outlet</i>	
Liquor Stores	22%
Bars, Restaurants	11%
Other Retail Stores	5%
Brewers, Distributors	10%*

*Much of this is probably delivered to the home.

Source: American Can Company survey of home beer consumption in 1952.

Excerpts From Respondent's Exhibit 133-A/N

1923)

November 30, 1954

Mr. A. von Gontard:

From time to time you have asked me questions like—

“What percentage of packaged BUDWEISER is sold through grocery stores?”

“How much of our product is sold on-premise?”

“What percentage of returnable bottles is sold off-premise?”

* * *

During the last two years I have asked on several occasions for authorization to request from our wholesalers the necessary data. In September you agreed to sending a letter over your signature to all wholesalers and branches asking for a detailed analysis of BUDWEISER sales during the month of August.

The response to that request has been pretty good. We have received replies from 774 shipping points, or 83% of all warehouse locations. These 774 shipping points account for 94% of all BUDWEISER sales. Therefore, we have adequate representation for general summaries even though we do not have 100% replies.

* * *

Now—for the first time, I can answer your questions.

16.6% of all packaged BUDWEISER is sold through food stores.

55.4% of all packaged BUDWEISER is sold for consumption on-premise.

20.4% of all returnable bottles is sold off-premise.

* * *

Excerpts From Respondent's Exhibit 133

(1332)

BUDWEISER sales—by type of outlet.

Taverns are the principal outlets for BUDWEISER sales, not only draught sales but packaged sales also. In this respect, BUDWEISER sales do not follow the general industry pattern.

In the table below I have summarized our survey findings by showing: 1) the percentage of outlets by type; 2) the percentage of BUDWEISER packaged sales by type of outlet; and 3) the percentage of BUDWEISER and MICHELOB combined draught sales by type of outlet. For comparison, I have shown figures from the May 1954 U.S.B.F. survey and the distribution of retail calls made by Anheuser-Busch field personnel during August and September 1954. (Two months are shown to indicate that this distribution of calls is a general pattern.)

	Percent of all licensed outlets	Percent of BUDWEISER Sales		U.S.B.F. Survey	Percent of A.B. Retail Calls	
		pkgd.	draught		Aug.	Sept.
Taverns	44.0%	42.6%	78.4%	18.8%	63.1%	63.1%
Restaurants	13.1	12.7	12.1			
Hotels—Clubs	7.3	6.8	4.1		6.7	6.7
Food Stores	23.7	16.6	0.3	48.6	18.2	18.2
Package Stores	6.2	12.2	0.3	19.4	7.1	7.1
Drug Stores	1.8	1.6	1.1			
Amusement Places	1.8	2.8	1.9		1.1	1.1
Railroad	0.1	0.2	1.1		1.8	1.8
Military	0.4	2.3	2.7			
All Others	1.6	2.2	0.2	13.2	2.0	2.0
TOTALS	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

Excerpts From Respondent's Exhibit 133

(1333)

. . .

It is evident that grocery stores offer the principal field for our efforts.

There is evidence also that package stores are increasing in importance as outlets. Representing only 6% of outlets and 12% of our package sales, and possibly 15% of total consumption, they are second only to grocery stores in importance on an industry total basis.

. . .

(1340)

. . .

I believe this is one of the most important studies we have made in recent years. It provides, on a reasonably accurate basis, information which heretofore was not available at all.

. . .

William J. Shine

Respondent's Exhibit 139

ON-OFF PREMISE SALES RATIO COMPARISON

ANHEUSER BUSCH-INDUSTRY

A-B ON-OFF
PREMISE SALES
RATIO - ~~PACKAGE~~
BEER ONLY



AUGUST 1954
A-B SURVEY

A-B ON-OFF
PREMISE SALES
RATIO - TOTAL
BEER

D R A U G H T

ON
PREMISE
63.3%

P A C K A G E B E E R

OFF
PREMISE
36.7%

AUGUST 1954
A-B SURVEY

INDUSTRY ON-
OFF PREMISE
SALES RATIO -
TOTAL BEER

ON
PREMISE
38.4%

OFF
PREMISE
61.6%

MAY-JUNE 1954
GROSSLEY SURVEY

Respondent's Exhibit 140

59)

August 12, 1955

City Sales Department, St. Louis, Mo.

On-Premise Sales

	1 9 5 3		1 9 5 4		1 9 5 5	
	Cases	% to Total	Cases	% to Total	Cases	% to Total
January	59,154	72	69,906	68	148,379	51
February	63,881	72	79,924	66	214,801	43
March	73,968	71	88,875	65	80,689	53
April	83,465	71	105,979	64	97,477	68
May	92,726	69	100,452	61	118,688	59
June	124,205	69	148,491	47	126,640	54
Months Total	497,399	70%	593,627	59%	786,674	52%
July	117,164	67	227,952	42	127,434	52
August	113,643	70	210,320	44	135,273	52
September	104,401	69	202,241	46	116,539	53
October	95,468	69	179,620	48	91,664	56
November	81,463	70	167,998	48		
December	97,931	67	185,266	46		
Months Total	610,070	69%	1,173,397	45%		
Year Total	1,107,469	69%	1,767,024	49%		

Respondent's Exhibit 141

(1360)

August 12, 55

On and Off-Premise Sales

Budweiser and Busch Lager Packaged Beer Sales

1955

BUDWEISER

	On-Premise		Off-Premise		Total
	Cases	%	Cases	%	
January	148,379	51	141,494	49	289,873
February	214,801	43	282,531	57	497,332
March	80,689	53	70,610	47	151,299
April	97,477	68	46,818	32	144,295
May	118,688	59	82,731	41	201,419
June	126,640	54	107,303	46	233,943
6 Months	786,674	52%	731,487	48%	1,518,161
July	127,434	52	118,372	48	245,806

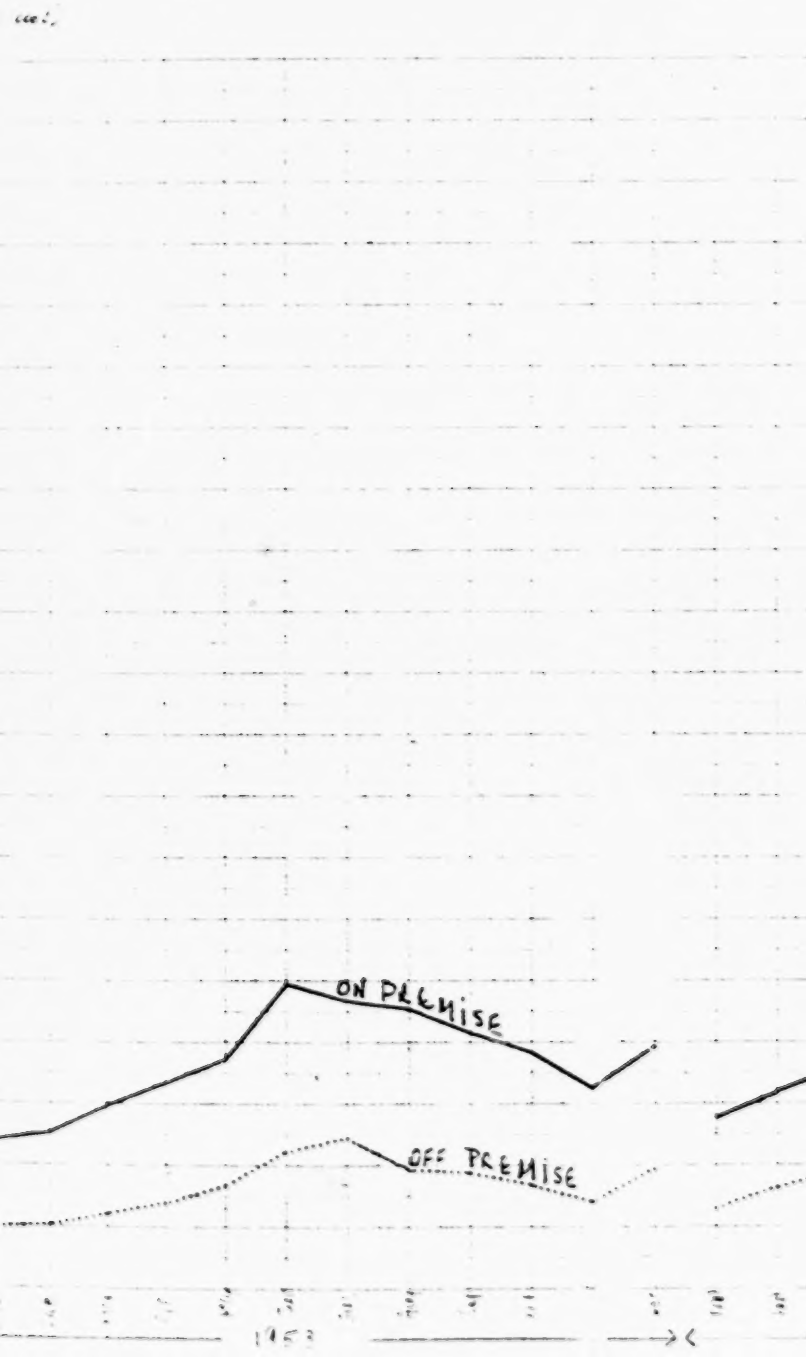
BUSCH LAGER

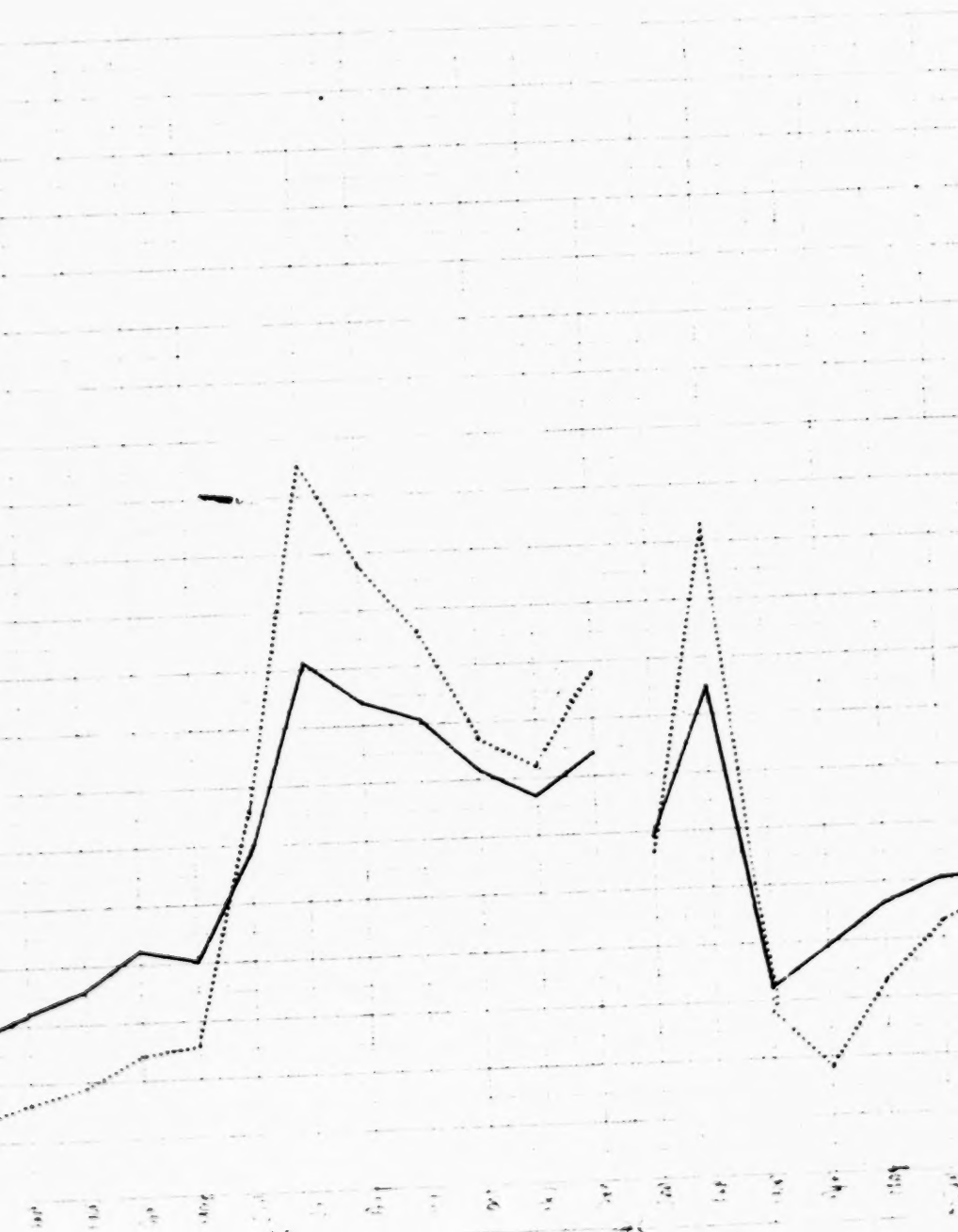
January					
February					
March	15,149	41	22,251	59	37,400
April	9,073	29	22,331	71	31,404
May	4,863	19	20,838	81	25,701
June	3,447	14	20,693	86	24,140
6 Months	32,531	27%	86,113	73%	118,644
July	5,976	25	17,959	75	23,935

TOTAL

January	148,379	51	141,494	49	289,873
February	214,801	43	282,531	57	497,332
March	95,838	51	92,861	49	188,699
April	106,550	61	69,149	39	175,699
May	123,550	54	103,569	46	227,119
June	130,987	50	127,996	50	258,983
6 Months	819,205	50%	817,600	50%	1,636,805
July	133,410	49%	136,331	51	269,741

City Sales Department, St Louis Mo
OFF - ON PREMISE SALES - CAGES





Respondent's Exhibit 126

(1171)

[INTER-OFFICE LETTERHEAD OF]

ANHEUSER-BUSCH, INC.

To Mr. Wm. Shine

April 21, 1954

From J. E. Barsi Subject 10-oz. non-returnable bottle

I spoke to Mr. Busch and Mr. von Gontard this morning about going ahead with the testing in three or four selected markets of the sales possibilities of the 10-oz. non-returnable bottle.

I would like to have you set up the testing cities. I will then advise the Production Department that this has been approved by Mr. Busch and they are to cooperate with the Sales Department in supplying sufficient quantities for test purposes.

JEB

J. E. Barsi

Respondent's Exhibit 127-A/B

(1173)

September 2, 1954

Mr. W. J. Shine:

As discussed in the special meeting held yesterday on new packages, we will have the following new packages:

Newark Brewery:

1. 12 25.6-oz. (fifth) Budweiser N.R. Bottle
2. 24 10-oz. Budweiser N.R. bottle regular
3. 24 10-oz. Budweiser N.R. bottle 4/6

St. Louis Brewery:

1. 24/10-oz. Budweiser can regular
2. 24/10-oz. Budweiser can 8/6 pack

As you know, and as discussed, we wish to test these packages in certain selected markets. Will you please check with each of the Regional Managers involved and with Mr. Garner to decide on the markets that will be used to test these packages.

After this decision has been made, will you please prepare for me, in cooperation with the Regional Managers, a schedule for every market in which each of the packages will be tested, showing:

1. FOB price for the package
2. Freight
3. Tax
4. Wholesalers cost of acquisition
5. Wholesalers mark-up
6. Price to retailer
7. Retailer's mark-up
8. Price to consumer.

Respondent's Exhibit 127

Also show as a comparison the price to the retailer and the price to the consumer for the most popular local and regional quart compared to our new "fifth" and the most popular local and regional 12-oz. compared to our new 10-oz. Also the additional comparison of the Budweiser quart with the "fifth" and the Budweiser 12-oz. with the 10-oz. The prices for Budweiser and locals and regionals to the consumer must be accurate, current prices in each market.

(1174)

After you and the Regional Managers have decided on the test markets and have prepared these schedules, I would like to review them before the final decision is made. Also, please prepare in conjunction with the Regional Managers an estimate of monthly requirements for each package which is required by the Production Department.

Will you please give this your immediate attention, since, as you know, I am extremely anxious that these packages be put in the market without delay.

J. E. Barsi

cc: Mr. A. von Gontard
 All Regional Managers
 Mr. F. W. Templeman
 Mr. M. R. Garner

Respondent's Exhibit 128-A/C

<i>No.</i>	<i>Market</i>	<i>Local Breweries</i>	<i>Brands</i>
1.	Chicago, Ill.	<p>Ambrosia Brewing Co.</p> <p>Atlantic Brewing Co.</p> <p>Atlas Brewing Co.</p> <p>Best Brewing Co.</p> <p>Canadian Ace</p> <p>Drewry's Ltd., U.S.A. Inc.</p> <p>Peter Fox Brewing Co.</p> <p>Peter Hand Brewery Co.</p> <p>Monarch Brewing Co.</p> <p>Pilsen Brewing Co.</p> <p>Schoenhofen Edelweiss Co.</p> <p>Sieben's Brewing Co.</p> <p>United States Brewing Co.</p> <p>Centlivre Brewing Corp.</p> <p>Falstaff Brewing Corp.</p>	<p>Nectar</p> <p>Tavern Pale, Durst</p> <p>Atlas Prager</p> <p>{Embassy Club, Hapsburg } Best "Brewery Fresh"</p> <p>Canadian Ace</p> <p>{Drewry's Extra Dry Beer } Drewry's Old Stock Ale</p> <p>Fox Deluxe, Alpine Premium</p> <p>Meister Brau, Peter Hand's Reserve</p> <p>Monarch, Encore, Augsburger</p> <p>"Yusay Pilsen"</p> <p>Edelweiss</p> <p>Sieben's Real Lager</p> <p>Rheingold, Gold Crown</p> <p>Old Crown</p> <p>Falstaff</p>
2.	Fort Wayne, Ind.		

Respondent's Exhibit 128

No.	Market	Local Breweries	Brands
3.	Cleveland, Ohio	Carling Brewing Co.	(Carling's Red Cap, Carling's Black Label, Stag
		Cleveland-Sandusky Brewing Corp.	Gold Bond Beer, Old Timer's Ale
		Leisy Brewing Co.	Leisy
		Pilsener Brewing Co.	P.O.C.
		Standard Brewing Co.	Erin Brew
4.	Cincinnati, Ohio	Burger Brewing Co.	Burger
		Hudepohl Brewing Co.	Hudepohl, Chevy 85 Ale
		Red Top Brewing Co., Inc.	Red Top, Barbarossa, Wunderbrau
		Schoenling Brewing Co.	Schoenling, Top Hat
	(Newport, Ky.)	Corn Wiedemann Brewing Co., Inc.	Wiedemann's Bohemian, Royal Amber
	(Covington, Ky.)	Bavarian Brewing Co., Inc.	Bavarian's Old Style Beer, Schott Ale
5.	Louisville, Ky.	Falls City Brewing Co., Inc.	Falls City
		Frank Fehr Brewing Co., Inc.	Fehr's X L Fehr's Liquid Gold
		Oertel Brewing Co., Inc.	Oertel's 92 Lager
6.	Nashville, Tenn.	No local breweries	
7.	Atlanta, Ga.	Atlantic Co.	Atlantic
8.	Memphis, Tenn.	No local breweries	

Respondent's Exhibit 128

76)

No.	Market	Local Breweries	Brands
10.	Pensacola, Florida	Spearman Brewing Co.	Spearman
11.	New Orleans, La.	American Brewing Co.	Regal
		Dixie Brewing Co., Inc.	Dixie 45
		Falstaff Brewing Corp.	Falstaff
		Jackson Brewing Co.	Jax. Sabana, Tex
12.	Houston, Texas	Gulf Brewing Co.	Grand Prize
13.	Dallas, Texas	No local breweries	
14.	Tulsa, Okla.	No local breweries	
15.	Amarillo, Texas	No local breweries	
16.	Denver, Colorado	Tivoli Brewing Co.	Tivoli
		Adolph Coors Co.	Coors Golden
17.	Omaha, Nebr.	Falstaff Brewing Corp.	Falstaff
		Metz Brewing Co., Inc.	Premium Metz
		Storz Brewing Co.	(Storz Triumph, Storz Premium) (Select, Winterbru

Respondent's Exhibit 128

<i>No.</i>	<i>Market</i>	<i>Local Breweries</i>	<i>Brands</i>
18.	Des Moines, Iowa	No local breweries	
19.	Minneapolis, Minn. (St. Paul)	<p>Cluck Brewing Co., Inc.</p> <p>Minneapolis Brewing Co., Inc.</p> <p>Theo. Hamm Brewing Co.</p> <p>Pfeiffer Brewing Co.</p>	<p>Gluck</p> <p>Grain Belt, Premium, Minnehaha Ale</p> <p>Hamm's</p> <p>{ Schmidt's City Club, } Pfeiffer's Famous</p> <p>{ Blatz Pilsener, Old Heidelberg, } Private Stock, Culmbacher, } Continental Special</p>
20.	Milwaukee, Wisconsin	<p>Blatz Brewing Co.</p> <p>A. Gettelman Brewing Co.</p> <p>Independent Milwaukee Brewery</p> <p>Miller Brewing Co.</p> <p>Pabst Brewing Co.</p> <p>Jos. Schlitz Brewing Co.</p>	<p>{ Gettelman Rathskeller Brew } Gettelman \$1,000 Natural Process</p> <p>{ Braumeister, Independent, } Log Cabin, Deutscher Club</p> <p>Miller High Life</p> <p>Pabst Blue Ribbon</p> <p>Schlitz</p>

SA1280

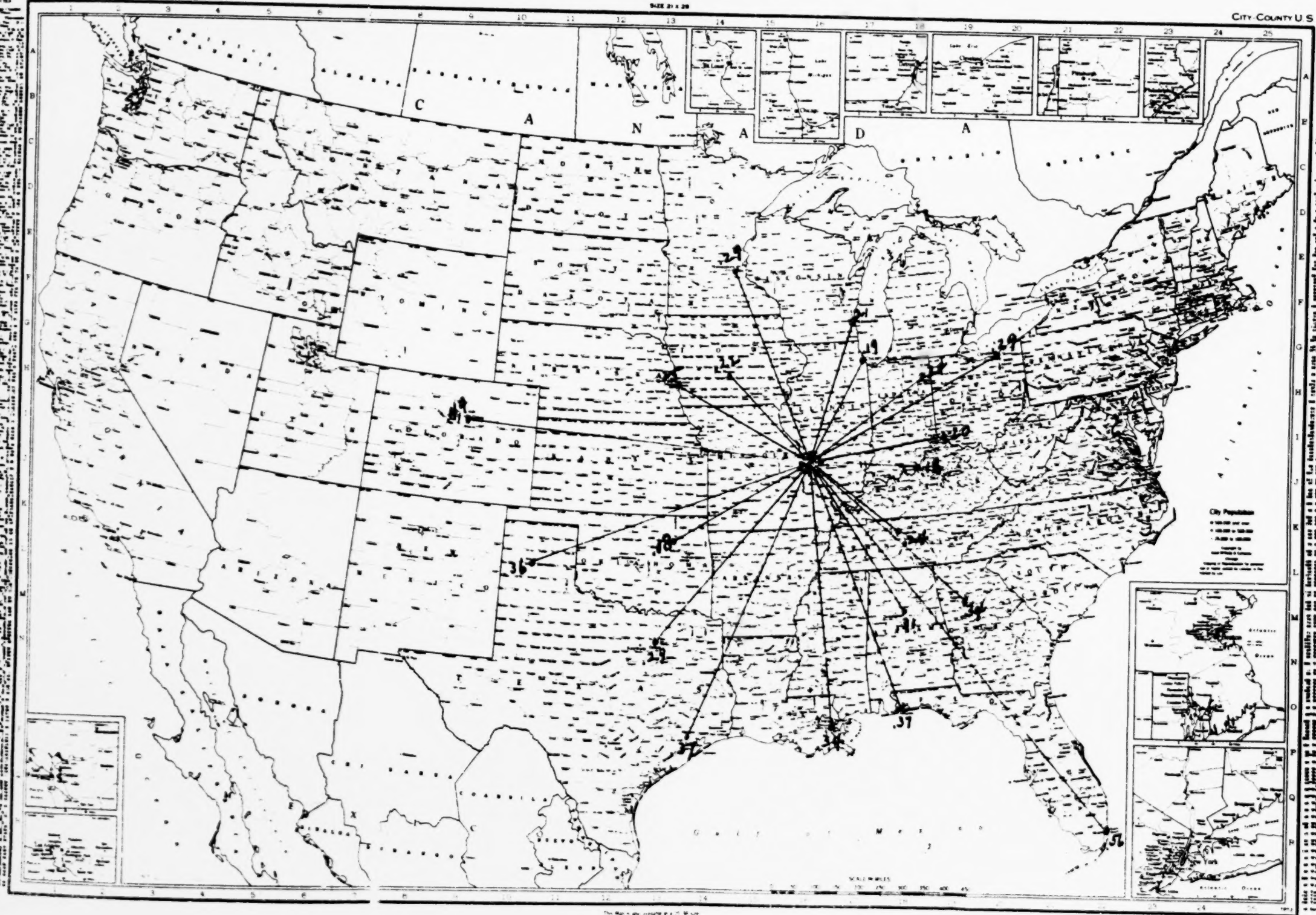
Respondent's Exhibit 128-C
Freight Chart Map 10/11/65
(21/17 oz. Returnable Bottle from St. Louis)

1303

1177
RAND McNALLY

SIZE 21 x 29

CITY-COUNTY U.S.



Excerpts From Respondent's Exhibit 129

(1180)

**Visualization of Crossley Nationwide Survey
Of Beer Consumption**

(Survey made in April 1949)

As presented by the J. Walter Thompson Company to the
United States Brewers Foundation meeting
at The Greenbrier, White Sulphur Springs, Virginia
September 1949

(1187)

69.0% Of All U. S. Families Contain Beer Drinkers.

. . .

**62.2% Of All U. S. Families Buy Beer Or Ale
For Home Consumption.**

. . .

(1189)

Place Of Purchase Of Beer Or Ale For Home Consumption

Grocery Store	39.9%
Tavern	25.6%
Delicatessen	15.0%
Liquor Store	6.7%
Miscellaneous Others	14.2%
Some named more than one place.	

Excerpts From Respondent's Exhibit 129

(1206)

The trend toward packaged beer shown by the industry's statistics seems to confirm the increased acceptance of beer in the home. The survey found, in 1949, that of all the glasses of beer consumed in a typical April week by the persons interviewed, approximately 55% were consumed in their own home. The industry's statistics for 1948 showed that 69% of all beer sales were packaged as compared with 62% in 1944. Packaged beer, of course, is the principal form used in home consumption, so this growth in the share represented by packaged beer is a further indication of growing importance of beer in the home.

(1207)

54.8% Of The Beer Reported Consumed By The Persons Interviewed Was In Own Home; 28.6% Was Reported As Consumed In Restaurants Or Bars.

16.6% In other homes or non taverns (picnics etc.)

• • •

Excerpts From Respondent's Exhibit 130

(1235a)

Visualization Of Crossley Nationwide Survey Of Beer And Ale Consumption

(Conducted in May and June 1954)

As presented by the J. Walter Thompson Company to the
Board of Directors, United States Brewers Foundation
The Homestead - Virginia Hot Springs
September, 1954

(1243)

. . .

89.5% of all families containing a beer drinker are in the habit of buying beer or ale for home consumption.

(1244)

. . .

69.4% Of All U. S. Families Contain Beer or Ale Drinkers.

. . .

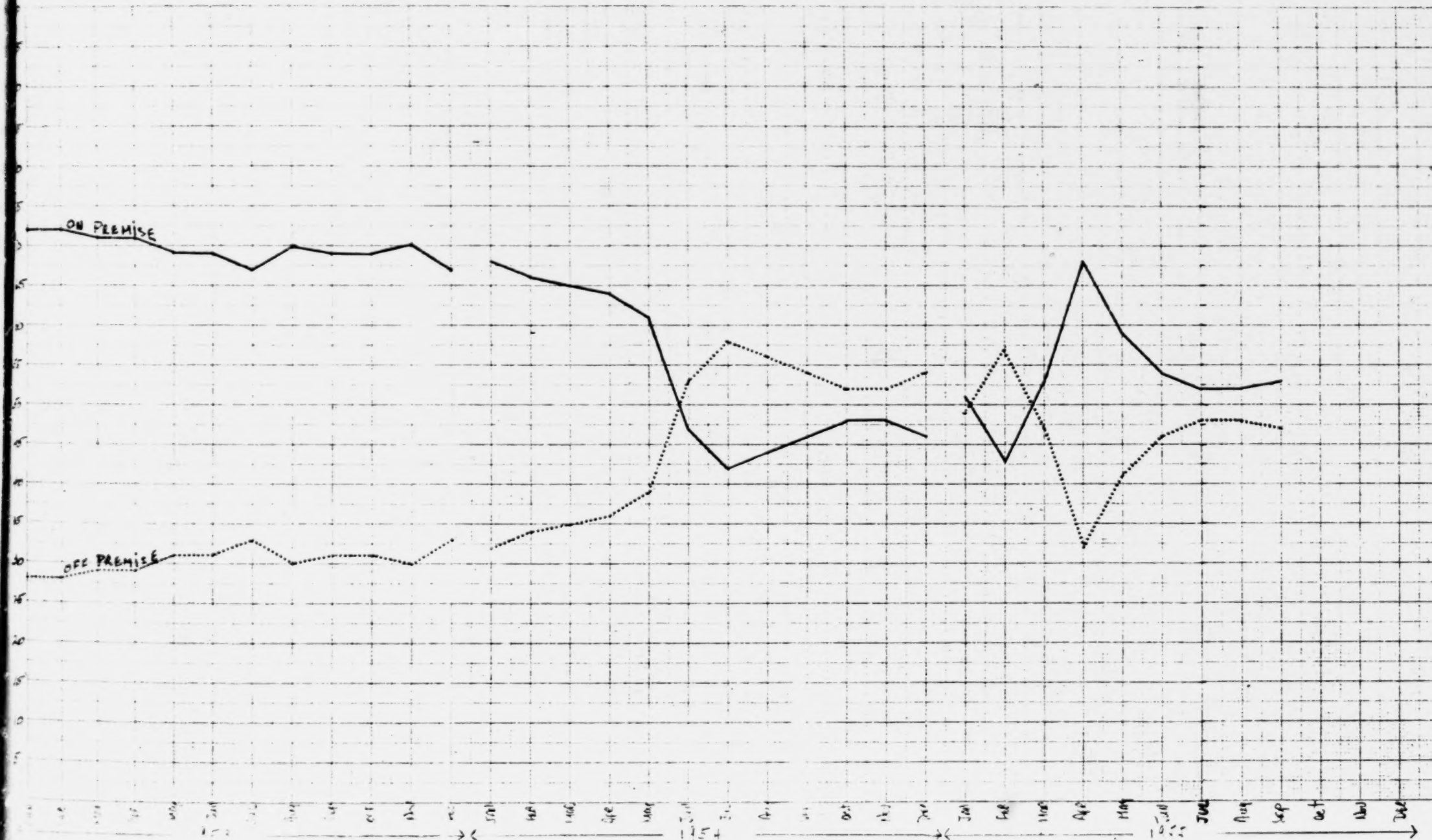
**62.1% Of All U. S. Families Buy Beer or Ale
For Home Consumption.**

. . .

(1245)

The increase in importance of the grocery store and supermarket as the place of purchase of beer or ale for home consumption is clearly indicated. More than one-half of all families buying packaged beer or ale obtain some portion of their supply from a grocery-type outlet. Supermarkets represent 27.3% and other grocery stores 24.0% for a total of 51.3% for this type of store.

1415



Excerpts From Respondent's Exhibit 143-A/C

(1363)

[LETTERHEAD OF]

ANHEUSER-BUSCH, Inc.

September 21, 1955

TO ALL WHOLESALERS:

In the various meetings I have held with our wholesalers during the last few months I have emphasized that we were doing, and would continue to do, everything possible to reduce the amount of paper work and reports to be sent to St. Louis.

Now, I find that we are in a situation where it is absolutely necessary to ask you for a special report, and we need the information quickly. As you may know we have to answer a complaint that has been filed by the Federal Trade Commission. Our next appearance is to be in Washington, D. C., on October 3, 1955, so you can see why it is important for us to have the requested information quickly.

I am sure you will understand that since these data are needed for our answer to a Federal complaint it is very important for the figures to be as accurate as you can get them in the time allowed. The information needed is shown on the enclosed simplified price report.

If you have any questions about the figures that are needed, the way they are to be reported, or anything else directly

Excerpts From Respondent's Exhibit 113

related to this request, please phone Mr. W. J. Shine, our Director of Marketing and Pricing (St. Louis—Prospect 3-3100, Extension 763—Reverse the charges) to save time.

Thanks a million for your always prompt and gracious co-operation.

Sincerely,

AUGUST A. BUSCH JR.
President

(1364)

EXPLANATION—HOW TO PREPARE

SPECIAL PRICING SURVEY

1. In the column headed "Brand Name" write in the names of all brands of beer that are sold in your territory in any significant quantity. By significant quantity we hope to eliminate those brands that are sold in such small quantities that they are inconsequential in total. These might include imported brands, brands shipped from distant points, etc. that might sell only a few cases per month.
2. In the column headed "Class" immediately after the brand name, write in "N" if the brand is a national brand; "R" if the brand is a regional brand; "L" if the brand is a local brand.
3. In the section headed "Price to Retailer" write in the prices charged for each brand. If a brand has only a single or flat price write that price in the column headed

Excerpts From Respondent's Exhibit 143

"Flat-Max". If a brand has a sliding scale of prices we are interested only in the *highest* or maximum price and the *lowest* or minimum price. Write the highest price in the column headed "Flat-Max" and the lowest price in the column headed "Quan-Min".

Indicate the quantity that must be purchased to obtain the minimum price. Thus if a brand sells at a maximum price of \$3.50 per case this price would be entered in the "Flat-Max" column and if the sliding scale goes down to 100 cases at \$3.20 the entry in the "Quan-Min" column would be 100/\$3.20.

If a brand has a regular price of \$3.50 per case and is giving one free with ten then the entries would be—\$3.50 in the "Flat-Max" column and \$3.18 in the "Quan-Min" column. (10 cases @ \$3.50 equals \$35.00. One free with ten means that 11 cases cost \$35.00 or \$3.18 per case.)

• • •

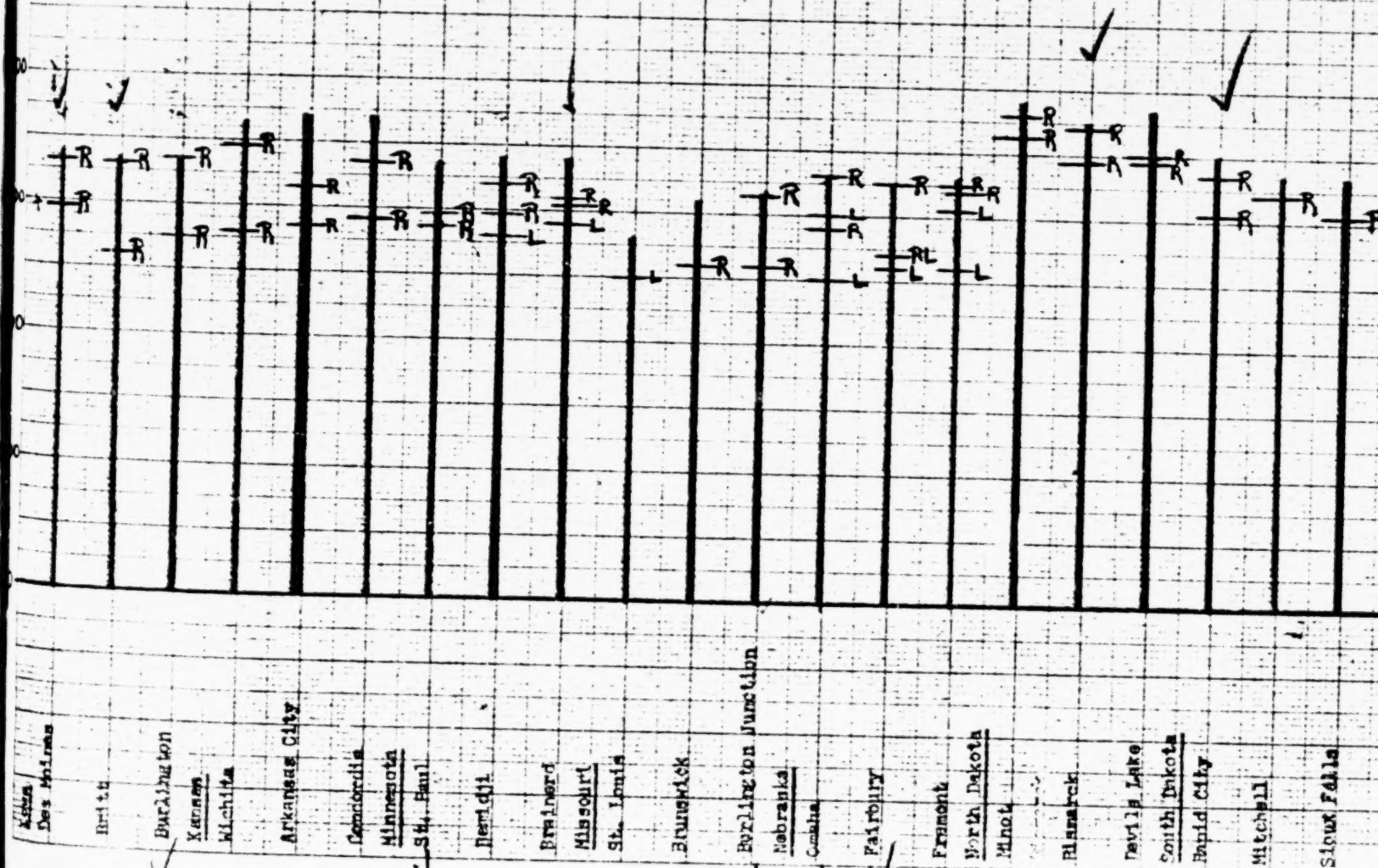
1. Largest volume market in state for which necessary price information is available.
2. First and second other markets on state alphabetic list.

Net (ex deposit) Price to Retailer
24/12 oz. Returnable Bottles
Region VII

Vertical Line - SUBSIDIZED price
Cross Lines - R, Regional Brand(s)
(High and Low) - L, Local Brand(s)

Basis of market selection

1. Largest volume market in state for which necessary price information is available.
2. First and second other markets on state alphabetic list.



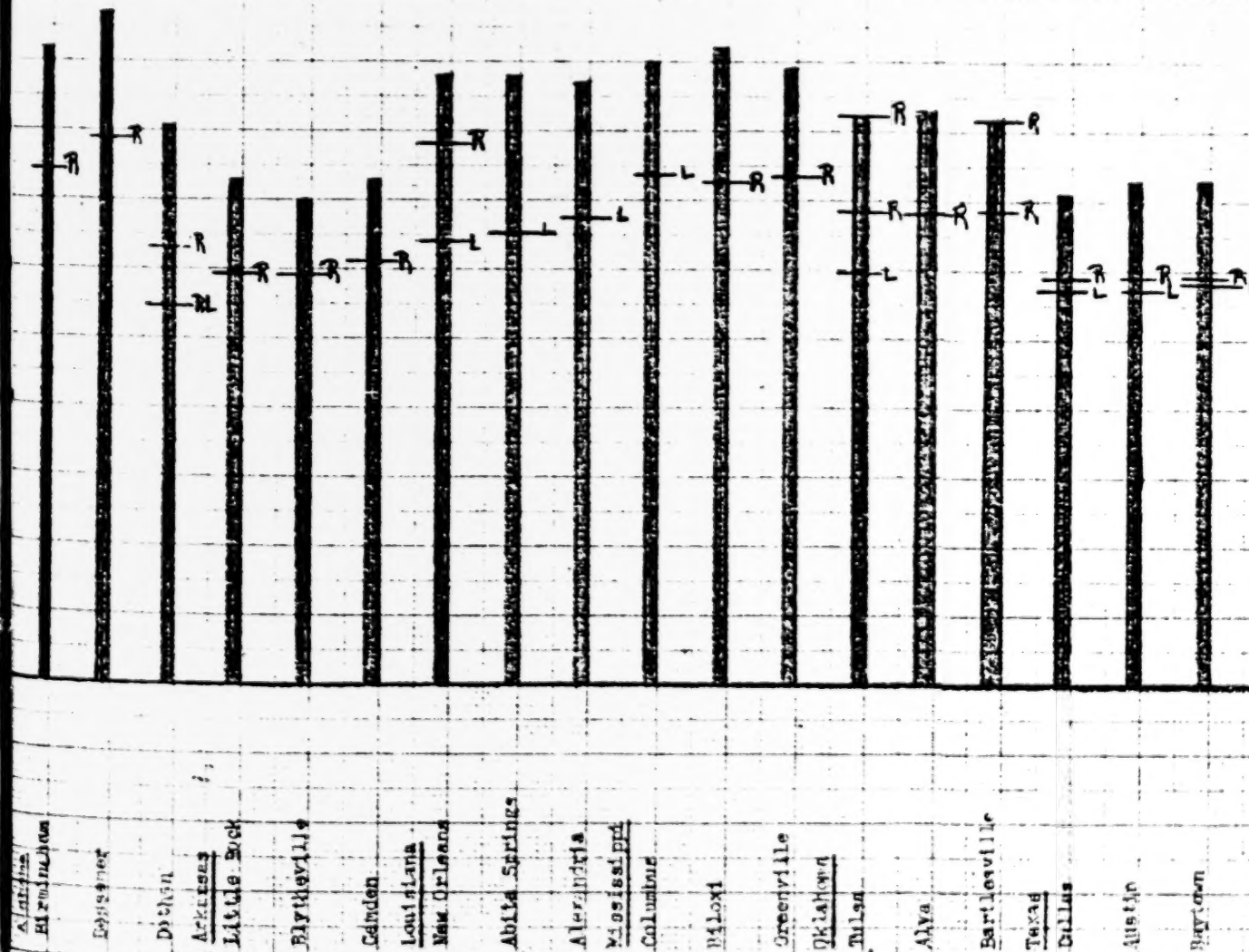
Net (ex deposit) Price to Retailer
24/12 oz. Returnable Bottles
Region VI

Vertical Line - BUDWEISER price

Cross Lines - R, Regional Brand(s)
(High and Low) L, Local Brand(s)

Basis of market selection

1. Largest volume market in state for which necessary price information is available.
2. First and second other markets on state alphabetic list.



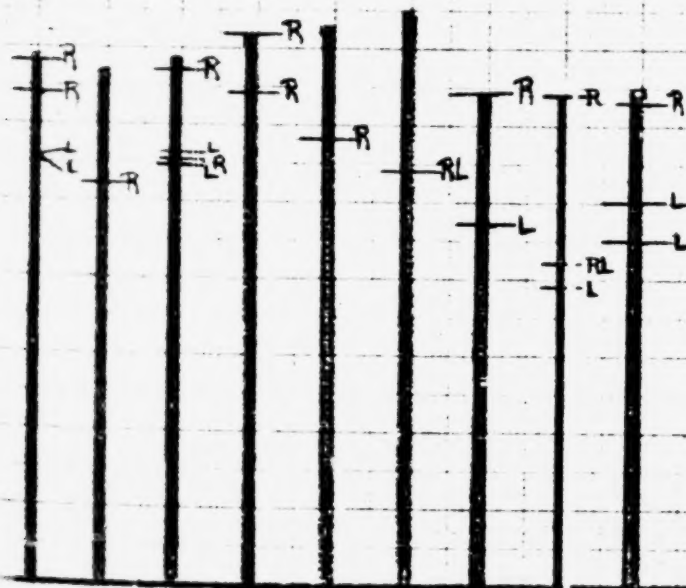
Net (ex deposit) Price to Retailer
24/12 oz. Returnable Bottles
Region V

Vertical Line - BUDWEISER price

Cross Lines - R, Regional Brand(s)
(High and Low) L, Local Brand(s)

Basis of market selection

1. Largest volume market in state for which necessary price information is available.
2. First and second other markets on state alphabetic list.



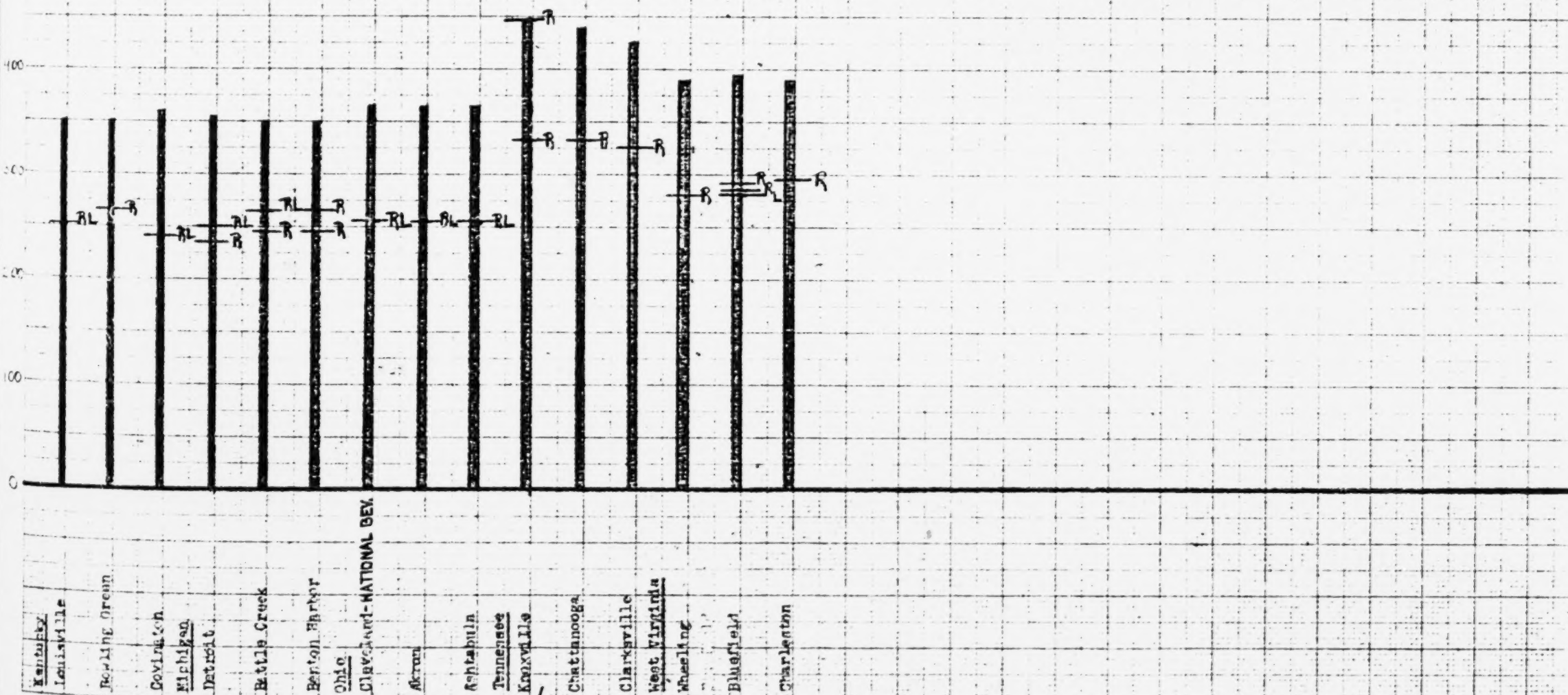
Illinois
Chicago (Logan)
Alton
Aurora
Indiana
East Chicago
Anderson
Auburn
Wisconsin
Madison
Appleton
Barron

Net (ex deposit) Price to Retailer
24/12 oz. Returnable Bottles
Region IV

Vertical Line - BUDWEISER price
Cross Lines - R, Regional Brand(s)
(High and Low) - L, Local Brand(s)

Basis of market selection

1. Largest volume market in state for which necessary price information is available.
2. First and second other markets on state alphabetic list.



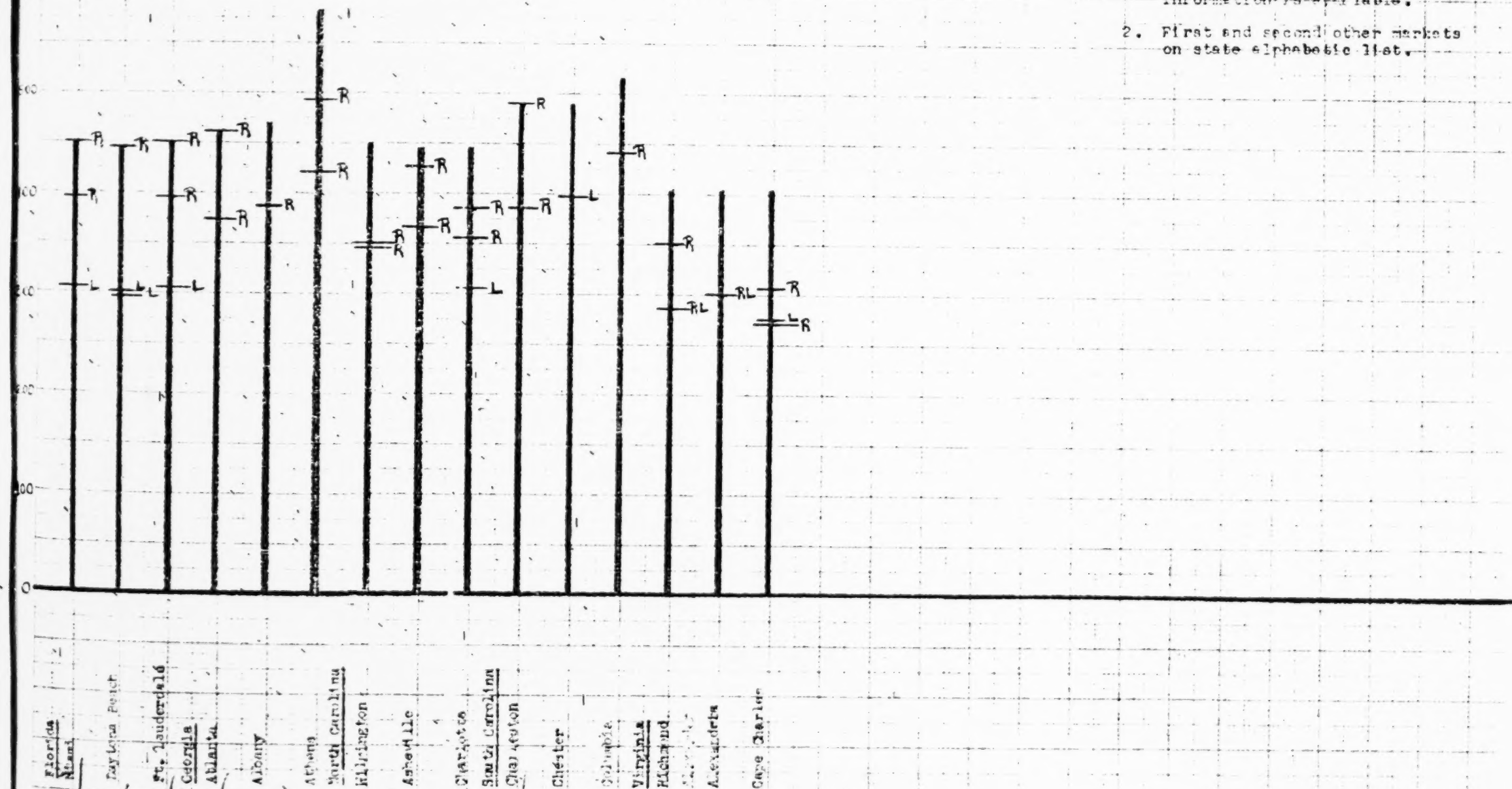
Net (ex deposit) Price to Retailer
24/12 oz. Returnable Bottles
Region III

Vertical Line - BUREAU price

Cross Lines - R, Regional Brand(s)
(High And Low) L, Local Brand(s)

Basis of market selection

1. Largest volume market in state for which necessary price information is available.
2. First and second other markets on state alphabetic list.



1374
1375

Respondent's Exhibit 145-G

1413

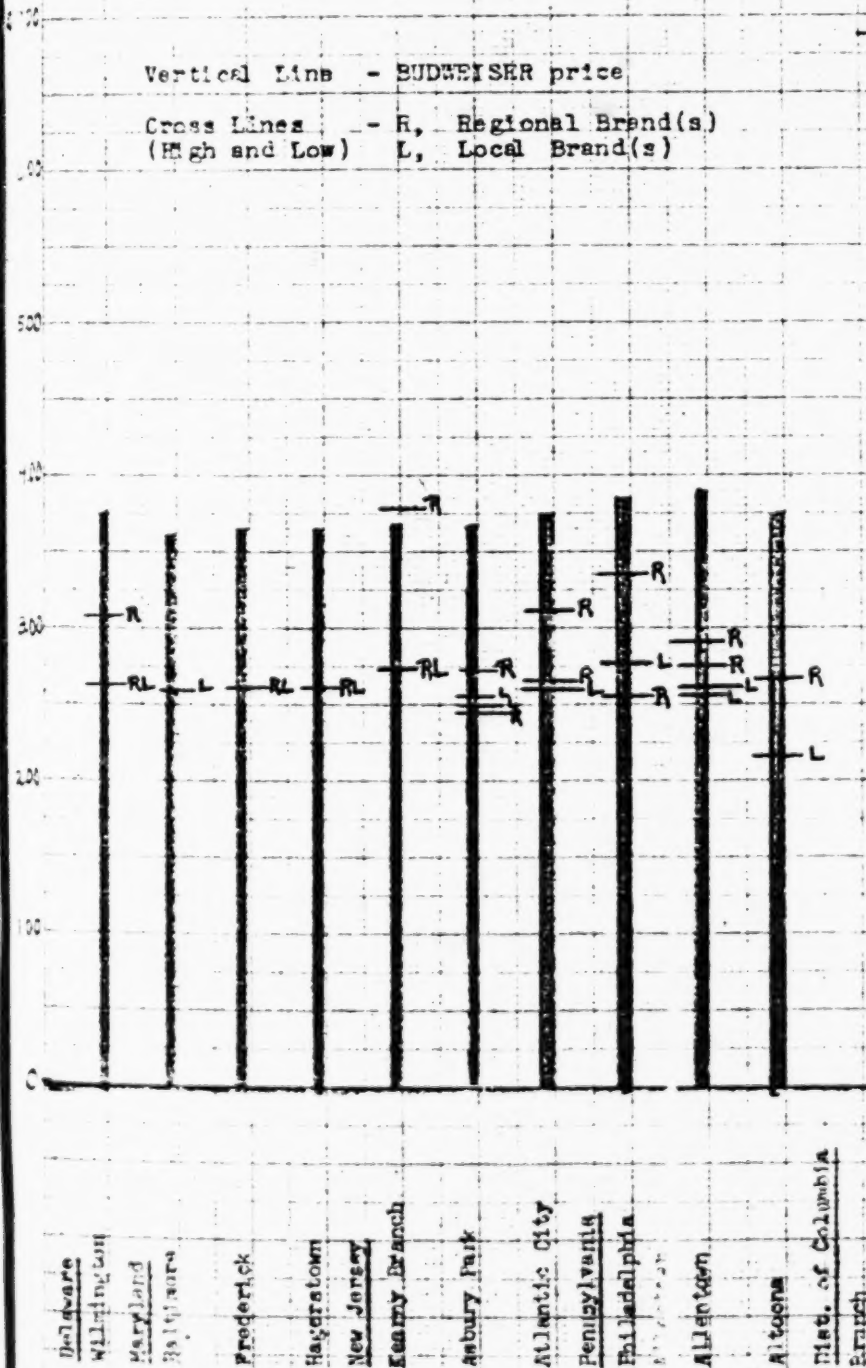
Net (ex deposit) Price to Retailer
24/12 oz. Returnable Bottles
Region II

Vertical Line - BUDWEISER price

Cross Lines - R, Regional Brand(s)
(High and Low) L, Local Brand(s)

Basis of market selection

1. Largest volume market in state for which necessary price information is available.
2. First and second other markets on state alphabetic list.

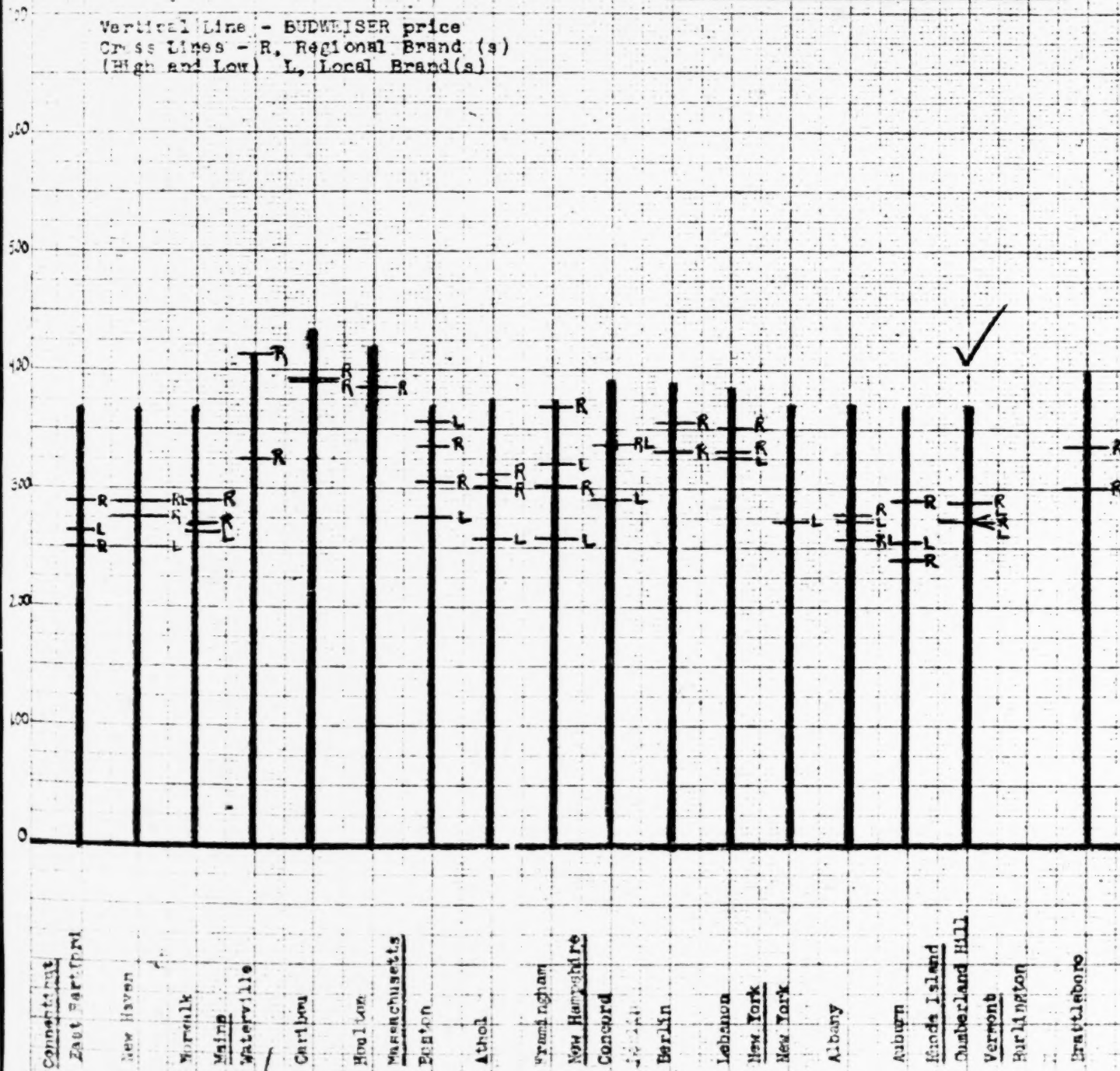


Net (ex deposit) Price to Retailer
24/12 oz. Returnable Bottles
Region I

Vertical Line - BUDWEISER price
Cross Lines - R, Regional Brand(s)
(High and Low) L, Local Brand(s)

Basis of market selection

1. Largest volume market in state for which necessary price information is available.
2. First and second other markets on state alphabetic list.



Respondent's Exhibit 147-A/C

November 22, 1955

24/12 Ounce Returnable Bottles

Fluctuations in Differentials of Prices to Retailers

Budweiser Versus Other Brands

1953 - 1954 - 1955

	1953 Price Spread Between Budweiser and Low Local Brands	1954 Versus 1953 Up Or Down	1955 Versus 1953 Up Or Down	1955 Versus 1954 Up Or Down
No Change				
No Local Brand				
No Figures Available				
Group I				
Connecticut, East Hartford	1.05	X	X	X
Massachusetts, Boston	.83	X	X	X
Worcester	1.05	X	X	X
New Hampshire, Manchester	.55	X	NL	NL
New York, Albany	.95	X	X	NC
Bronx	.97	X	X	NC
Glen Falls	.95	X	X	X
Manhattan	.97	X	NF	NF
Syracuse	.93	X	X	NC
Westbury	.97	X	X	NC
Rhode Island, Cumberland Hill	.96	X	X	X
Group II				
Washington, D. C.	1.06	NC	NC	NC
Maryland, Baltimore	1.10	X	X	X
Upper Marlboro	1.10	NC	NC	NC
New Jersey, Kearny	.97	X	X	NC
New Brunswick	.90	X	NL	NL
Trenton	.95	X	X	X
Pennsylvania, Harrisburg	1.05	X	X	X
Lansdale	.95	X	X	NC
New Castle	1.10	NC	X	X
Philadelphia	.95	X	X	X
Pittsburgh	1.00	X	X	X
Group III				
Florida, St. Petersburg	1.30	X	X	NC
Georgia, Atlanta	1.10	X	NL	NL
North Carolina, Durham	NL	NL	NL	NL
Greensboro	1.15	X	X	X
South Carolina, Charleston	NL	NL	NL	NL
Virginia, Danville	NL	NL	NL	NL
Newport News	1.16	X	X	X
Norfolk	1.35	X	NC	X

Respondent's Exhibit 147

(1394)

	1953 Price Spread Between Budweiser and Low Local Brands	1954 Versus 1953 Up Or Down	1955 Versus 1953 Up Or Down	1955 Versus 1954 Up Or Down
Region IV				
Ohio, Akron	1.05	X	X	
Canton	1.05	X	X	
Cincinnati	.95	X	X	
Cleveland	1.05	X	X	
Columbus	1.05	X	X	
Kentucky, Louisville	.85	X	X	
Michigan, Detroit	1.00	X	X	NC
Pontiac	1.05	X	X	NC
Norway	.90	X	X	X
Tennessee, Memphis	.77	X	NL	NL
West Virginia, Wheeling	NL	NL	NL	NL
Region V				
Illinois, Chicago	.72		X	X X
Lawrenceville	.60		X	NL
Rock Island	.95	X	X	NC
Indiana, Indianapolis	NL	NL	NL	NL
Lafayette	.70	X	NF	NF
Wisconsin, Milwaukee	.36	NC	X	X
Region VI				
Alabama, Birmingham	NL	NL	NL	NL
Arkansas, Texarkana	NL	NL	NL	NL
Louisiana, Lake Charles	.83	X	NL	NL
Mississippi, Clarksdale	.65	X	NF	NF
Oklahoma, Oklahoma City	1.08	X	X	
Tulsa	1.08	NC	X	X
Texas, Amarillo	.63	X	NF	NF
Beaumont	.93	X		X
Corpus Christi	1.01	X		X
Dallas	.84	X		X
Fort Worth	.84	X		X
Galveston	.96	X		X
Wichita Falls	.85	X		X
Houston	.87	X		X

Respondent's Exhibit 147

	<i>1953 Price Spread Between Budweiser and Low Local Brands</i>	<i>1954 Versus 1953 Up Or Down</i>	<i>1955 Versus 1953 Up Or Down</i>	<i>1955 Versus 1954 Up Or Down</i>
Item VII				
Iowa, Cedar Rapids	.76	X	NL	NL
Kansas, Wichita	NL	NL	NL	NL
Minnesota, Rochester	.99	X	X	X
Missouri, Lebanon	.50	NC	NL	NL
Nebraska, Lincoln	.85	NC	X	X
Omaha	.85	NC	X	X
North Dakota, Minot	NL	NL	NL	NL
South Dakota, Rapid City	.15	NC	NL	NL
Item VIII				
Arizona, Phoenix	1.39	X	X	X
Tucson	1.18	X	NL	NL
California, Los Angeles	1.11	X	X	X
Sacramento	1.12	X	NF	NF
San Diego	1.06	X	NL	NL
San Francisco	NL	NL	NF	NF
Santa Ana	1.11	X	X	X
Watsonville	1.13	X	X	X
Idaho, Boise	1.00	X	X	X
Montana, Billings	.95	X	X	NC
Oregon, Portland	1.22	X	X	X
Utah, Salt Lake City	1.69	X	X	X
Washington, Seattle	1.14	X	X	X
Spokane	1.08	X	X	X
Tacoma	1.14	X	NF	NF

Respondent's Exhibit 148-A/C

(1396)

NC—No Change

NR—No Regional Brand

NF—No Figures Available

November 22, 1953

24 12 Ret. Bottles

Fluctuations in Differentials of Prices to Retailers

Budweiser Versus Other Brands

1953 - 1954 - 1955

	1953 Price Spread Between Budweiser and High Regional Brands	1954 Versus 1953 Up Or Down	1955 Versus 1953 Up Or Down	1955 Versus 1954 Up Or Down
Region I				
Connecticut, East Hartford	.80	NC	NC	NC
Massachusetts, Boston	.64	X	X	X
Worcester	.38	X	X	X
New Hampshire, Manchester	.50	X	X	X
New York, Albany	.95	X	X	X
Bronx	.97	X	NR	NR
Glen Falls	.80	X	X	X
Manhattan	.97	X	NF	NF
Syracuse	.93	X	X	X
Westbury	.97	X	NR	NR
Rhode Island, Cumberland Hill	.80	X	X	NC
Region II				
Washington, D. C.	1.06	NC	NC	NC
Maryland, Baltimore	1.10	X	NR	NR
Upper Marlboro	1.10	NC	NC	NC
New Jersey, Kearny	.97	X	X	X
New Brunswick	.90	X	X	X
Trenton	.95	NC	X	X
Pennsylvania, Harrisburg	.68	X	X	X
Lansdale	.35	X	X	X
New Castle	.85	X	X	X
Philadelphia	.36	X	X	X
Pittsburgh	NR	NR	NR	NR
Region III				
Florida, St. Petersburg	.63	X	X	X
Georgia, Atlanta	.68	X	X	X
North Carolina, Durham	.60	X	X	X
Greensboro	.85	X	X	X
South Carolina, Charleston	.80	X	X	NC
Virginia, Danville	.90	X	X	X
Newport News	1.16	X	X	X
Norfolk	.20	NC	X	X

Respondent's Exhibit 148

	1953 Price Spread Between Budweiser and High Regional Brands	1954 Versus 1953 Up Or Down	1955 Versus 1953 Up Or Down	1955 Versus 1954 Up Or Down
Region IV				
Ohio, Akron	1.05	X	X	X
Canton	1.05	X	X	X
Cincinnati	.95	X	X	X
Cleveland	1.05	X	X	X
Columbus	1.00	X	X	X
Kentucky, Louisville	.85	X	X	X
Michigan, Detroit	1.00	X	X	NC
Pontiac	.03		X	X
Norway	.60	NC	NC	NC
Tennessee, Memphis	.77	X	X	X
West Virginia, Wheeling	.96	X	X	X
Region V				
Illinois, Chicago	.09		X	NC
Lawrenceville	.60	X	X	X
Rock Island	—	X	X	X
Indiana, Indianapolis	.75	X	X	NC
Lafayette	.70	X	NF	NF
Wisconsin, Milwaukee	.26		NC	X
Region VI				
Alabama, Birmingham	.73		NC	X
Arkansas, Texarkana	.55	X		X
Louisiana, Lake Charles	NR		NR	NR
Mississippi, Clarksdale	NR		NR	NF
Oklahoma, Oklahoma City	.65	X		X
Tulsa	.64		NC	X
Texas, Amarillo	—	X		NF
Beaumont	.83	X		X
Corpus Christi	.86	X		X
Dallas	.69	X		X
Fort Worth	.69		X	X
Galveston	.81	X		X
Wichita Falls	.65	X		X
Houston	.73	X		X

Respondent's Exhibit 148

(1398)

	1953 Price Spread Between Budweiser and High Regional Brands	1954 Versus 1953 Up Or Down	1955 Versus 1953 Up Or Down	1955 Versus 1954 Up Or Down
Region VII				
Iowa, Cedar Rapids	.21	X	X	NC
Kansas, Wichita	.05	X	X	NC
Minnesota, Rochester	.14	X	X	X
Missouri, Lebanon	NR	NR	NR	NR
Nebraska, Lincoln	.10	NC	NC	NC
Omaha	.10	NC	NC	NC
North Dakota, Minot	.20	NC	X	X
South Dakota, Rapid City	.15	NC	X	X
Region VIII				
Arizona, Phoenix	.37	X	X	X
Tucson	.93	X	X	X
California, Los Angeles	.35	X	X	X
Sacramento	.73	X	NF	NF
San Diego	NR	NR	NR	NR
San Francisco	1.10	X	X	X
Santa Ana	.33	X	X	X
Watsonville	.20	X	X	X
Idaho, Boise	.05	X	X	X
Montana, Billings	—	X	X	X
Oregon, Portland	1.22	X	X	X
Utah, Salt Lake City	.61	X	X	X
Washington, Seattle	.01	X	X	X
Spokane	.11	X	X	X
Tacoma	.01	X	NF	NR

(1399)

Respondent's Exhibit 149

November 23, 1955

**Summary of Fluctuations in Differentials of
Prices to Retailers**

<i>BUD vs. Low Local</i>		<i>BUD vs. High Regional</i>
74	Number of markets with 1953 prices	79
	In 1954—	
50	Up	49
15	Down	17
9	No Change	13
—		—
74		79
	In 1955—	
29	Up	36
25	Down	29
3	No Change	6
10	No Local/Regional	1
7	Not Available	7
—		—
74		79
	Number of markets with 1954 prices	77
	In 1955—	
12	Up	21
32	Down	37
13	No Change	13
10	No Local	
7	Not Available	6
—		—
74		77

Respondent's Exhibit 152

1428

Source--Anheuser-Busch
National Price Survey
September 21, 1955

Comparison of Blatz Prices versus Budweiser Prices
and Regional Local Prices

November 10, 1955

	24/12 Bottles							48/12 Cans (8/6)						
State	No. Markets Mentioned	Blatz Higher Than Bud.	Blatz Same As Bud.	Blatz bet. Bud. and Regionals/Locals	Blatz Same As Regionals/Locals	Blatz Below Reg. Locals	No Blatz Bottle Prices Reported	Blatz Higher Than Bud.	Blatz Same As Bud.	Blatz bet. Bud. and Regionals/Locals	Blatz Same As Reg./Locals	Blatz Below Reg./Locals	No Blatz Can Prices Reported	
Alabama	2			2						2				
California	6	1	2	2			1	1		4			1	
Connecticut	1			1								1		
Florida	5			4			1			5				
Georgia	3		2			1			2	1				
Illinois	17			16			1	1	1	15				
Indiana	2		1	1					1	1				
Iowa	11		1	10						8	2	1		
Kentucky	3		2	1					2				1	
Louisiana	1		1						1					
Michigan	17		7	9	1				2	5	10			
Montana	2			1			1				2			
Nebraska	1			1				1						
New Jersey	2			2				1	1					
New Mexico	2		1	1						2				
New York	5		4	1				1	2	1	1			
North Carolina	11			8	2	1				9	2			
Ohio	2		1	1					1	1				
Pennsylvania	1					1					1			
South Carolina	3		2		1					3				
Tennessee	1			1						1				
Virginia	3			2			1			3				
West Virginia	1			1						1				
Wisconsin	13	1	12					2	9	2				
Wyoming	5		1	4					1	2		2		
TOTALS	120	2	37	69	4	3	5	7	23	66	18	4	2	

Excerpts From Respondent's Exhibit 153

(1405)

May 7, 1954

Mr. A. von Gontard:

A special analysis of major markets in the United States has been concluded, with the exception of a few markets for which no reports have been received as yet. The markets surveyed were taken from a list of 200 branch and wholesale markets which account for 69.5% of our total domestic business. About 86 of these markets were selected because of sales declines and importance, and only one market was assigned to each Regional Manager, Assistant Regional Manager, District Manager, and Major Market Supervisor.

The number of markets by Regions for which surveys have been completed are shown below:

Region I—North Atlantic—Reed	10
II—Mid Atlantic—Miller	11
III—South Atlantic—Fogassey	8
IV—East North Central—Rollins	11
V—West North Central—Bien	4
VI—Southern—Gordon	13
VII—Midwest—Huebner	8
VIII—Mountain & Pacific—Flanigan	13
	—
Total	78

This indicates that a good cross section of the country was under scrutiny by our top sales personnel, and it is my

Excerpts From Respondent's Exhibit 153

belief that it is a good sample of the markets accounting for a major portion of our volume. The attached map shows the location of each market.

The purpose of the survey, although not all-inclusive to permit ease of preparation, was to get specific and factual information about the particular market and to get a cross section of conditions among all major markets. I believe the purpose was accomplished.

Generally speaking there are two main reasons for sales declines:

1. *Economic Conditions:*

There has been, according to the survey, a leveling off in industry in most major markets. Either unemployment has increased, or overtime and premium pay eliminated, or a combination of both. Apparently consumers have less money to spend or are more careful how they spend it.

(1406)

2. *Pricing Factors:*

After the last round of price increases by the shipping brewers in October, 1953, many on-premise outlets raised the price of premium brands 5¢ per bottle. Below is shown the comparison of the number of outlets at various price levels before and after the price increase:

Excerpts From Respondent's Exhibit 153

	10/1/53	5/1/54	Variance
Outlets at 25c	25,223	11,596	-54%
Outlets at 30c	29,750	37,892	+27.4%
Outlets at 35c	13,989	19,337	+38.2%

Where local or regional brands *did not* increase their prices, the result was an increased number of accounts with a 10¢ spread. The existence of this spread where it did not exist before seriously affected sales of all premium brands. Below is a comparison of the number of accounts with a 10¢ spread before the October price increase and after the price increase:

*National vs. Local**No. of Accts. with 10¢ Spread*

10/1/53	5/1/54	Var.
7,687	12,890	+67.7%

*National vs. Regional**No. of Accts. with 10¢ Spread*

10/1/53	5/1/54	Var.
4,692	8,846	+88.5%

When locals or regional brands *did* increase their prices, along with the premiums, all brands were increased 5¢ per bottle in many outlets. Our sales were also affected under these conditions. The consumers are apparently reluctant to buy the premium brands in the higher price bracket and switched to the local and regional brands.

Excerpts From Respondent's Exhibit 153

Apparently the consumer was willing to continue to buy beer, but was not willing to pay the extra 5c for his premium brand and thus switched to the local or regional.

Similar price patterns occurred in off-sale outlets where shoppers are even more aware of pennies and nickels. The result was sales in off-premise outlets were likewise adversely affected.

These two important factors—decline in the economy and a round of price increases at the retail and consumer level—occurring almost simultaneously—resulted in losses in total beer consumption, but most seriously affected the premium brands.

(1407)

Up to now the shipments of Budweiser and Michelob as compared to the other premium brands have not been of too much concern because we have been increasing wholesaler and retailer inventories in anticipation of the peak selling season. However, apparently the retailer has not been selling sufficient volume and the pipe lines are full.

Under present circumstances we cannot be too optimistic of the immediate future unless economic conditions materially improve. Based on the estimates of our field men, more of the markets surveyed for the second quarter of 1954 will be under the sales of the second quarter of 1953 than will be over. By Regions the forecast is as follows:

Excerpts From Respondent's Exhibit 153

<i>Region & Manager</i>	<i>Second Quarter</i>		
	<i>1954</i>	<i>1954</i>	<i>1954</i>
	<i>OVER</i>	<i>UNDER</i>	<i>SAME AS</i>
	<i>1953</i>	<i>1953</i>	<i>1953</i>
I—North Atlantic—Reed	6	3	1
II—Mid Atlantic—Miller	6	4	1
III—South Atlantic—Fogassey	3	4	1
IV—E. North Central—Rollins	4	6	1
V—W. North Central—Bien	2	2	—
VI—Southern—Gorden	2	10	1
VII—Midwest—Huebner	6	2	—
VIII—Mount. & Pac.—Flanigan	4	8	1
Total	33	39	6

In the meantime Sales Management, sensing some time ago the impending decrease in premium brand sales, has more actively pushed ahead with contests, special material for wholesalers and field men to be used in combating the pricing factors, special meetings in the field with wholesalers and their personnel, more personalized selling through our Retailer Schools, and by bringing retailers to St. Louis. Other plans also have been specifically designed to stimulate sales. Our wholesalers, too, with our cooperation and guidance have been more active according to the survey. They are stepping up contests, increasing incentive plans, adding special promotions, using more local consumer advertising, adding personnel and trying by every means to stay ahead of competition.

Excerpts From Respondent's Exhibit 153

As a part of the survey we asked our wholesalers and our field men what recommendations they had for Anheuser-Busch activities. It was felt these recommendations could be used as a guide for Management in making short-term and long term plans.

These recommendations are tabulated below:

(1408)

Wholesalers' Recommendations

	<i>More Consumer Advertising</i>	<i>Adjustment in Price</i>	<i>More P.O.S.</i>	<i>Misc. (A)</i>
No. of Mentions	51	21	16	20

Field Men's Recommendations

	<i>More Consumer Advertising</i>	<i>Adjustment in Price</i>	<i>More P.O.S.</i>	<i>Misc. (B)</i>
No. of Mentions	45	14	18	15

(A) Ten different recommendations.

(B) Six different recommendations.

It is interesting to note that the preponderance of recommendations by both wholesalers and field men had to do with more consumer advertising. Of the 51 mentions for consumer advertising by wholesalers, 24 specifically mentioned a *national TV* show. Of the 45 mentions for consumer advertising by field men 15 specifically mentioned a *national TV* show.

Excerpts From Respondent's Exhibit 153

Attached are two actual completed surveys for Cleveland, Ohio, and Durham, North Carolina, so that the scope of the entire survey can more readily be seen.

Also attached is a summary by Regions of the pertinent information for all the surveys with brief remarks on each Region and an All Region Summary. Individual letters will be written to each Regional Manager on each market where follow-up is indicated.

I know you will agree that much valuable information has been accumulated which can be used in our over-all planning and for policy decisions.

J. E. Barsi

Att.

Respondent's Exhibit 154-A/F

(1460)

June 4, 1954

Mr. James E. Barsi

Mr. J. Hallquist, Jr.

It appears that any productive reduction in 8/6 pack cans, or other can pack, at the retail level would seriously disturb the marketing of other 12 oz. packages particularly the 12 oz. returnable bottle.

Considering major markets in three regions, Atlantic, East North Central and Southern used in the recent survey, the differentials between returnable 12 oz. bottles and the statistical equivalent of the 8/6 can pack range as follows:

Region #I 14¢ to 28¢ with 5 out of 10 under 22¢

Region #IV 20¢ to 35¢ with 5 out of 12 25¢ or under

Region #V 18¢ to 30¢ with 13 out of 14 25¢ or under

If can prices to the retailer approximated the price of the liquid content of returnable bottles we could, based on previous experience with non-returnable bottles, expect cans to replace bottles over the bar in many outlets.

Non-returnable 12 oz. bottles were next considered as a "fighting package", however, the same conditions with regard to our overall marketing position holds true also in this instance.

It does appear, based on the markups for 8/6 can packs shown in the attached lists, that the markups are excessive in many markets and should be reduced — however, markups on 24/12 oz. returnable bottles should likewise be reduced.

Respondent's Exhibit 154

It is therefore suggested that we establish maximum "Recommended markups for all packages".

This would — in most markets — cause an adjustment in prices to the consumer of all of our take home packages.

(1461)

Based on 1953 sales volume any substantial reduction in F.O.B. price of our can packages would reduce Anheuser-Busch revenues substantially;

Can Sales — 1953

<i>By Units</i>		<i>By Statistical Cartons</i>
12/12 oz. cartons	2,507,405	1,253,702
8/6 -12 oz. "	5,554,110	11,108,226
24/12 oz. "	16,069,731	16,069,731
		28,431,653

@ 10¢ per carton reduction \$2,843,165.30 loss in revenue

@ 15¢ per carton reduction \$4,264,747.95 loss in revenue

Beyond establishing "Recommended maximum markups" there remains only two other possibilities;

- 1) Proceed with a different sized package such as the 10 ounce bottle or can.
- 2) Consider using the 7 ounce or 32 ounce as a fighting package.

Respondent's Exhibit 154

In the case of:

1) There are certain disadvantages:

- a) The time element—months would be required to obtain the bottle or can. Label and carton design and production would take time. Machine changes might be slow.
- b) Restricted markets due to state laws and regulations.
- c) Uncertain public acceptance.

(1462)

2) There are certain advantages for the 7 ounce bottle;

- a) It is in production.
- b) It can combat high over the bar prices of Budweiser and is a good tool against local or lower priced brands.

3) There are certain advantages for the 32 ounce bottle;

- a) It is in production.
- b) It can move high gallonage from our plants.
- c) It reaches the home market where price is especially important.
- d) Because of their low volume wholesalers will cooperate in making it a "loss leader".

Respondent's Exhibit 154

- e) Any substantial reduction will be easily apparent at the retail level — 12 units vs. the usual 24.
- f) It should help bottled and can sales by creating new consumers.

It is therefore recommended that;

- 1) We establish "Recommended maximum mark-ups" for all packages.
- 2) That we immediately use the quart package as a fighting and volume producing package.
- 3) That we proceed as quickly as possible with the development of a 10 ounce bottle and/or can package.

J. Hallquist, Jr.

Respondent's Exhibit 154

(1463)

REGION I—NORTH ATLANTIC

<i>City</i>	<i>Price to Retailer</i> <i>6 Pack Cans</i>			<i>Price to Consumer</i> <i>6 Pack Cans</i>			<i>Wh. Mktg</i>	<i>Differential</i> <i>24 12 oz. Re</i>
	<i>Bud</i>	<i>Local</i>	<i>Diff.</i>	<i>Bud</i>	<i>Local</i>	<i>Diff.</i>	<i>8, 6 Cans</i>	<i>ca. 4 6 Cans</i>
Albany	.97	.82	.15	1.19	.99	.20	1.35	.20
Boston	.99	.84	.15	1.35	1.14	.21	1.25	.28
Bronx	.98	.81	.17	1.23	1.05	.18	1.47	.24
East								
Hartford	.95	.85	.10	1.20	1.11	.09	1.18	.14
Glen Falls	.97	.81	.16	1.20	1.05	.15	1.26	.20
Manchester	1.03	.92	.11	1.29	1.15	.14	1.50	.25
Manhattan	.98	.82	.16	1.23	1.05	.18	1.47	.24
Syracuse	.98	.82	.16	1.14	.99	.15	1.35	.21
Westbury	.98	.82	.16	1.23	.99	.24	1.39	.24
Worcester	.98	.89	.09	1.32	1.14	.18	1.18	.18

*Respondent's Exhibit 154***REGION IV—EAST NORTH CENTRAL**

	<i>Price to Retailer</i> <i>6 Pack Cans</i>			<i>Price to Consumer</i> <i>6 Pack Cans</i>			<i>Wh. Mkp</i>	<i>Differential</i> <i>24 12 oz. Ret.</i>
	<i>Bud</i>	<i>Local</i>	<i>Diff.</i>	<i>Bud</i>	<i>Local</i>	<i>Diff.</i>	<i>8 6 Cans</i>	<i>vs. 4 6 Cans</i>
Ann	1.01	.81	.20	1.25	1.05	.20	1.12	.25
Ann	1.01	.81	.20	1.30	1.05	.25	1.12	.25
Cleveland (Dunk)	1.02	.82	.20	1.30	.99	.31	1.22	.30
Cleveland (National)	1.02	.82	.20	1.30	.99	.31	1.22	.30
Cincinnati	1.02	.86	.16	1.27	1.05	.22	1.26	.32
Columbus	1.02	.83	.19	1.25	.98	.27	1.27	.30
Detroit	.96	.85	.11	1.15	1.05	.10	1.29	.30
Louisville	.94	.78	.16	1.10	.90	.20	1.15	.25
Memphis	1.15	.99	.16	1.25	1.06	.19	1.35	.35
Norway	.93	.75	.18	1.20	.95	.25	1.06	.25
Pontiac	.97	.85	.12	1.23	1.08	.15	1.39	.30
Wheeling	1.02	—	—	1.30	—	—	1.13	.20

Respondent's Exhibit 154-

(1465)

REGION VI—SOUTHERN REGION

<i>City</i>	<i>Price to Retailer</i> <i>6 Pack Cans</i>			<i>Price to Consumer</i> <i>6 Pack Cans</i>			<i>Wh. Mkp</i>	<i>Differential</i> <i>24 12 oz. R</i>
	<i>Bud</i>	<i>Local</i>	<i>Diff.</i>	<i>Bud</i>	<i>Local</i>	<i>Diff.</i>	<i>8 6 Cans</i>	<i>vs. 4 6 Cans</i>
Amarillo	1.00	.85	.15	1.25	1.00	.25	1.44	.25
Beaumont	.99	.81	.18	1.20	1.00	.20	1.34	.20
Birmingham	1.12	—	—	1.30	—	—	1.20	.20
Clarksdale	1.17	1.02	.15	1.39	1.29	.10	1.25	.20
Corpus Christi	.99	.81	.18	1.25	1.00	.25	1.32	.18
Dallas	.96	.79	.17	1.39	1.26	.13	1.23	.20
Ft. Worth	.96	.81	.15	1.20	1.05	.15	1.23	.20
Galveston	.98	.81	.17	1.19	.97	.22	1.34	.20
Houston	.98	.81	.17	1.23	.98	.25	1.33	.25
Lake Charles	1.15	.99	.16	1.30	1.10	.20	1.17	.20
Okla. City	1.12	.93	.19	1.30	1.11	.19	1.33	.25
Texarkana	1.03	—	—	1.15	—	—	1.33	.30
Tulsa	1.12	.98	.14	1.33	1.07	.26	1.36	.25
Wichita Falls	.91	.81	.10	1.20	1.00	.20	.83	.20

Respondent's Exhibit 155

(1466)

[INTER-OFFICE LETTERHEAD OF]
ANHEUSER-BUSCH, INC.

September 1, 1954

To Mr. J. E. Barsi
From F. P. Rollins, Jr.

You asked for a reply on wholesaler markups on the proposed new packages, i.e.,

24/10-Oz. Cans	—	.45
24/10-Oz. N/R Bottles	—	.45
12-4/5 Quarts	—	.50

These packages should be considered extra volume packages competing price-wise with local and regional beers.

In order to reach consumers at competitive prices to local and regional beers, the markups should not exceed the above.

Since the .45 and .50 markups are comparable to those of most local and regional beers I feel that our wholesalers will go along with these recommended markups.

F. P. Rollins, Jr.

Respondent's Exhibit 156

(1467)

[INTER-OFFICE LETTERHEAD OF]

ANHEUSER-BUSCH, INC.

To Mr. J. E. Barsi
From J. A. Huebner

September 1, 1954

With reference to your query regarding wholesalers' reactions to a 45¢ mark-up on a 10 oz. can carton and a 50¢ mark-up on both the fifth package and the 10 oz. N.R. bottle package, I am of the following opinion.

Our wholesalers generally are seeking a means of increasing their volume in the instances where they have suffered sales losses, and any new packages that might offer them this opportunity will in most cases be accepted, even with the reduced mark-up. It is essential that we make them understand fully that our recommendation is a means of helping them overcome certain sales problems that they are presently faced with and to convince them that by increasing their volume appreciably, their cost of delivery per unit will be reduced, which in turn will offset the lower mark-up on a new package.

While there will no doubt be some objections to a lower mark-up, I feel sure that our recommendations will be generally accepted by our wholesalers when the advantages of potential sales increases are pointed out.

J. A. Huebner

Respondent's Exhibit 158-A

(1471)

January 28, 1954

Mr. A. B. Orthwein:

As you know, during the Regional Meetings, there were discussions concerning various type packages.

Mr. von Gontard has asked me to check with you to determine the feasibility of producing an 11-oz. returnable bottle and an 8-oz. non-returnable bottle.

We would like to know, if possible, the beer and packaging cost of a case of 24 11-oz. returnable bottles of Budweiser compared to a case of 24 12-oz. returnable bottles, excluding any brewery mark-up.

For the 8-oz. non-returnable bottle, in addition to the feasibility from a production standpoint, we would like to know comparative beer and packaging costs for 24/8-oz. non-returnable bottles of Budweiser and 36/8-oz. non-returnable bottles compared with the regular 24/12-oz. non-returnable and the 36/7-oz. returnable bottles.

As you can see, we are trying to determine whether we can offer these packages to wholesalers at a price attractive enough through all channels of distribution.

J. E. Barsi

cc: Mr. A. von Gontard

THE WASHINGTON POST and TIMES HERALD, WASHINGTON, D. C., February 9, 1935

HERE ARE THE FACTS

That Have Not Been Told About the

"FULL 12" oz. can

ALL OVER the country millions of Americans enjoy the beverage of moderation—BEER. Perhaps you, too, find that beer occupies a "friendly" place in your home, and we hope that VALLEY FORCE BEER is your favorite choice . . .

We feel that you should know that VALLEY FORCE BEER, like hundreds of other fine beers throughout the country, is packed in 12 ounce cans and bottles, a size that has been—and is—traditional the world over.

We bring this to your attention because we do not want you to confuse the "FULL 12" ounce size of VALLEY FORCE BEER with 10 ounce packages of beer that are now being advertised in this market. We feel it our duty to point out to you, that when you purchase a 10 ounce can of beer, you are obtaining 2 ounces less beer than you find in the "FULL 12" of VALLEY FORCE BEER.

When you buy beer, DEMAND that extra 20%—or a "FULL 12" for the same money. YOU CAN BE SURE that the VALLEY FORCE DISTRIBUTING COMPANY will advertise and give you exactly what you pay for, without misconception or confusion. Our "FULL 12" of VALLEY FORCE BEER or RAMS HEAD ALE is just what it implies . . . a full 12 ounces—at the POPULAR PRICE.

VALLEY FORCE DISTRIBUTING CO.

Largest Distributor of Beer & Ale

Excerpts From Respondent's Exhibit 162-A/L

(1478)

KICK-OFF MEETINGS**Test Markets**

* * *

(1482)

Gentlemen:

I want to thank you for coming to this meeting from your territories. I know you are all busy, but I think this meeting we are about to hold is one of the most important we have ever held as it concerns the future of Anheuser-Busch, you, and all our wholesalers and their men.

For several months, we have had underway plans for meeting the lower price situation which has caused a consumer trend to local and regional beers. I know you are all familiar with this trend which is a natural one. The real volume beer drinkers are the lower income group and this group does not have the same amount of money to spend for beer now because there is not as much employment and overtime pay is generally a thing of the past.

Furthermore, there has been much talk of depressions, recessions and adjustment periods which has made people cautious and price conscious.

* * *

After careful study and analysis, the answer would seem to be for Anheuser-Busch to make Budweiser available in packages that would be competitive on a package versus package basis with the local and regional brands instead of an ounce for ounce basis.

Excerpts From Respondent's Exhibit 162

(1483)

. . .

Your Sales Department at Anheuser-Busch and the Production Department have been studying and exploring all the production factors of a number of new size packages for Budweiser. These studies have been completed and our officials have authorized the expenditure of sizeable sums at our various breweries to produce and market a new package—and here it is.

(1484)

The new Budweiser Fifth (Show Package).

. . .

Your Regional Manager, the Sales Research Department, and I have jointly selected your market as a test market for the Fifth. We sincerely believe that this package, properly advertised, merchandised, and sold will mean a great deal more additional volume to you and Anheuser-Busch since it will be sold at a price competitive to local and regional beers in your market. This is the package which will give us a shot at the % of the business we are not now getting.

For your information, too we will also have

The 10 oz. Budweiser non returnable bottle (show package). This will be packaged in a regular pack and a 4/6 pack.

. . .

The next new package is the 10-oz. Budweiser can in regular packs of 24 cans and in the 8/6 packs. This package

Excerpts From Respondent's Exhibit 162

will be produced at the St. Louis Brewery only and will be ready for shipment on December 1.

In addition, the 16 oz. can has been approved for Budweiser and will be available from both the St. Louis and Los Angeles Breweries in about five months.

. . .

(1485)

. . .

I want to tell you we have every confidence in this package and in you, and we are backing up that confidence in your market. Just recently the Board of Directors, on my request, approved a quarter of a million dollars to be spent in test markets on new packages for consumer advertising and for point-of-sale material. Look around you and you will see some of the point-of-sale material especially developed on the Fifth.

. . .

I know that the type of consumer advertising you will get will do much to launch these new products in a most effective manner. However, in addition to the new point-of-sale material and the consumer advertising, Anheuser-Busch will send a crew of men into your market to work with you. We will keep these men in your market for a number of days depending on the judgment of our Regional Manager and yourself.

. . .

Respondent's Exhibit 163-A/E

(1490)

**BUD FIFTH
SUGGESTED MEETING GUIDE
FOR REGIONAL MANAGER**

This suggested meeting guide can be used during your BUD FIFTH kickoff meeting to be attended by your sales crew, the wholesaler and his sales personnel.

Sequence of meeting

- 1) Open meeting by stating the reasons for introducing the new package. Have several BUD FIFTH bottles on display. (See Page 1 attached).
- 2) Tell how BUD FIFTH is packaged. (See page 1).
- 3) Explain to everyone the pricing of BUD FIFTH (Have a blackboard available).
 - 1) Price to retailer
 - 2) Suggested price to consumer
- 4) Explain and show all available samples of BUD FIFTH point-of-sale and consumer advertising support. (See page 2).
- 5) Explain the overall policy on BUD FIFTH distribution and where the sales effort should be concentrated. (See page 3).
- 6) Then have the wholesaler and each salesman review the outlet list (or sales records cards). Write

Respondent's Exhibit 163

down the best prospects. Later, these should be entered on one master list and a copy given to each crew member and each wholesaler salesman.

- 7) Explain the best display locations for BUD FIFTH. (See page 4).
- 8) Build two or three sample BUD FIFTH displays at this point.
- 9) Designate one crew member as The Budweiser Salesman. Designate a wholesaler salesman as The Retailer. Have the salesman sell the retailer on BUD FIFTH. (See page 3). Ask for comments and suggestions for improvement.
- 10) Before you adjourn the meeting, decide on the call list for the first day, second day and 3rd day. (By the end of the 3rd day, you will want to meet again to review progress, revise the call lists, and appoint certain men for callbacks).

Respondent's Exhibit 163

(1491)

HOW TO SELL THE NEW
"BUD FIFTH"
BUDWEISER BOTTLE

WHAT IS "BUD FIFTH"?

It's a new package for beer — pioneered by Anheuser-Busch. BUD FIFTH is a 25 6/10 ounce non-returnable bottle of world-famous Budweiser.

HOW ARE "BUD FIFTH" BOTTLES PACKAGED?

Two ways:

1. Regular carton of twelve 25 6/10 ounce no-deposit bottles.
2. Master carton of six 2-packs.

WHY IS ANHEUSER-BUSCH INTRODUCING "BUD FIFTH"?

Because many persons will buy Budweiser flavor and quality in a 25 6/10-oz. bottle in preference to a 32-oz. bottle of a local or regional brand at the same price. This means *extra* volume for Budweiser wholesalers.

"BUD FIFTH" HAS COMPLETE SALES AND ADVERTISING SUPPORT

Your Regional Manager is scheduling the following sales and advertising activities to coincide with the introduction of the BUD FIFTH bottle in your market.

Respondent's Exhibit 163

(1492)

1. BUD FIFTH newspaper ads in your local newspapers.
2. Special 24-sheet posters in your market.
3. Spot announcements over your local radio stations.
4. Special point-of-sale material will consist of bottle toppers, shelf flanges, price cards, streamers, and wrap-arounds for shopping carts.
5. Our Public Relations Agency is sending news releases on the introduction of BUD FIFTH in your market.
6. Special truck banners for all your delivery and transport trucks.
7. We will also send you a supply of small drop-in admats which you can give to those of your retailers who advertise their products in your local papers and circulars.
8. An Anheuser-Busch sales crew (supervised by your Regional Manager) will help you get initial orders, place point-of-sale material, build displays, and do everything else they can help you introduce BUD FIFTH bottles.

WHAT IS THE WHOLESALER'S FIRST JOB?

The wholesaler's first job is to establish his price to retailers so it will be low enough to compete with local and regional 32-oz. bottles.

Respondent's Exhibit 163

The state tax on BUD FIFTH is lower than on quarts in most states.

The freight is lower

Warehouse and delivery expenses are lower in most markets.

Since BUD FIFTH will be in direct competition with local 32-oz. bottles, the wholesaler should add a mark-up which will be low enough to actually *compete*. We feel that a suggested mark-up of 45¢ per case, coupled with the lower costs listed above, will result in a consumer price low enough to divert a great deal of local and regional quart volume to Budweiser.

(1493)

The wholesaler will want to sell the retailer on the fact that BUD FIFTH *if priced right* will mean extra volume for him.

WHAT IS THE WHOLESALER'S *SECOND* JOB?

After the wholesaler sets his price as low as possible the next job is to get BUD FIFTH bottles sold to the maximum number of retail outlets in the shortest possible time.

Generally, the wholesaler should concentrate on those on-premise and off-premise outlets which sell a high-volume of local and regional quarts but a small volume of premium quarts.

Respondent's Exhibit 163

SELLING *BUD FIFTH* TO THE BEER RETAILER

Point out the advantages of BUD FIFTH *to the retailer*

1. It is a *first* in the industry — many people will want to sample the new size.
2. A carton of two BUD FIFTH no-deposit bottles can be sold to the consumer for as little as 75¢ in some markets.
3. Many shoppers will buy *more* beer if they can buy Budweiser at a lower price. It's the old story of the bargain buy. People frequently buy more than originally intended if the *unit* cost is attractive to them.
4. Budweiser in BUD FIFTH no-deposit bottles completes the line of beer packages and beer is a high profit item in most stores.
5. BUD FIFTH is a no-deposit bottle, convenient to the retailer and his patrons.
6. Many bargain conscious shoppers will buy a "fifth" of the world's finest beer at a popular price — and they will appreciate the fact that the retailer has made it available.
7. BUD FIFTH requires less space in coolers and refrigerators than do quarts.
8. BUD FIFTH chills quicker than quarts in the bar cooler or home refrigerator.

Respondent's Exhibit 163

(1494)

THE THIRD JOB — BUD FIFTH DISPLAYS IN RETAIL OUTLETS

Displays should be built in *all* outlets — food stores, package stores, taverns, delicatessens, etc.

BUD FIFTH bottles should be displayed in the same shelf or refrigerator area as 32-oz. bottles of local and regional brands. This display area should be some distance away from the display section used for 32-oz. premium brands. This arrangement will encourage shoppers to buy BUD FIFTH instead of 32-oz. locals and regionals.

If Budweiser 32-oz. bottles are sold in the outlet they should be displayed in the premium brands section so they will continue to get their share of the premium volume.

Never display the BUD FIFTH bottle next to Budweiser 32-oz. bottles. If you do, shoppers may buy the BUD FIFTH instead of Budweiser 32-oz. bottles. Always remember the purpose of BUD FIFTH — to get *new* volume, sales which formerly went to 32-oz. locals and regionals.

After BUD FIFTH is displayed, call the shoppers attention to the new package by using the special point-of-sale material described in the section "Complete Sales and Advertising Support."

Respondent's Exhibit 167-A

(1506)

November 2, 1955

City Sales Department, St. Louis, Mo.

ANNUAL TOTALS

	<i>1953</i>	<i>1954</i>	<i>1955</i> <i>(9 Months)</i>
Sales — Cases			
On Premise	1,107,469	1,767,024	1,165,920
% to Total			
AB sales	69%	49%	52%
Off Premise	492,550	1,828,841	1,074,580
% to Total			
AB sales	31%	51%	48%
Total	<hr/> 1,600,019	<hr/> 3,595,865	<hr/> 2,240,500

Respondent's Exhibit 168

(1507)

*All contingent upon availability of
10-ounce returnable bottles*

February 1st to 16th — condition consumers by accelerating the theme that Budweiser is a bargain — buy it while you can at popular prices.

February 14th — Announce to St. Louis retailers that all present prices will be increased on March 1st. Make no announcement that a 10-ounce package will be sold.

February 16th — Announce to St. Louis consumers that Budweiser prices will advance on March 1st.

March 1st — Increase 12-ounce prices, and announce to retailers the 10-ounce bottle and can prices, and get distribution.

Bring in 10 men to work one week on distribution.

March 2nd — Consumer advertising copy plugging the 10-ounce bottle and can at popular prices.

Begin selection of manpower to form local Busch Lager sales organization.

5 men for off-sales operation	}	\$12,000 per month
8 men for on-premise operation		

March — Hiring date of additional manpower, and begin training period.

1 week — Merchandising and Sales Service School

1 week — On the job with experienced men

Respondent's Exhibit 168

Paint five ranch wagons for use by off-premise men, with Busch Lager copy.

Paint 25 existing Budweiser delivery trucks with Busch Lager copy — all to be ready by April 1st.

Prepare sample kit and brochure for use by salesmen.

March 21st — Kick-off meeting for wholesalers in 100 mile area who participate in St. Louis' advertising coverage.

March 24th — Begin Busch Lager teases on radio, television, Cardinal local station.

March 29th — Mail announcement letter for Busch Lager to retailers.

Kick-off meeting, all driver-salesmen and salesmen. Commence drive for distribution.

April 1st — Begin delivery of Busch Lager to retailers.

Begin deliveries to area wholesalers.

Respondent's Exhibit 170

(1509)

February 24, 1955

Mr. James E. Barsi

The original time table for 10 ounce returnable Budweiser and Busch Lager has become obsolete, hence, the following is proposed;

March 8 or 9 (Monday or Tuesday)

Kick off meeting for Missouri and Illinois wholesalers selected for Busch Lager and the 10 ounce returnable bottle.

March 14 (Monday)

Send announcement letter to retail trade. Deliver 12 bottles of Busch Lager to home of every driver salesman and salesman with letter by Lohr. Letter would ask them to try Busch Lager about which they would hear more at Tuesday morning meeting.

March 15 (Tuesday)

7:00 A.M. meeting — all driver salesmen and salesmen

Short talks by — Mr. E. Anheuser

Mr. F. Schwaiger — on product

Mr. J. E. Barsi — on sales

Mr. Ray Krings — on advertising
push

Deliveries begin to retailers in St. Louis and St. Louis County — three days should cover every outlet in market. Because Busch Lager is already the talk of the town distribution should be well established in three days.

Respondent's Exhibit 170

Deliveries begin to selected wholesalers in Missouri and Illinois.

No teaser copy advertising is necessary.

March 18 (Friday)

Consumer advertising begins — posters — newspapers — radio and television.

According to latest available information the 8/6 can pack for Busch Lager may be ready at the same time as the 24/12 oz. returnable bottle and 24/12 oz. cans. Deliveries of entire line could then begin on March 15th.

If this schedule meets with approval, please advise me.

J. Hallquist, Jr.

Respondent's Exhibit 172

(1518)

*KANSAS BUSCH BAVARIAN MEETINGS**J. A. HUEBNER*

(Shirts)

(Thank the previous speakers and make some appropriate remarks about the beauty, newness, and attention-getting consumer advertising and point-of-sale.)

I think you know now why Mr. Busch was impressed with Busch Bavarian beer and its campaign, and I know you are as pleased as I am that he chose Kansas for its kick-off.

I couldn't help but build up a terrific amount of enthusiasm for the beer, its quality, its taste, and the advertising idea that surrounds it. I hope you men are as pleased and happy with Busch Bavarian in Kansas as all of us are.

Perhaps you wonder why Busch Bavarian is coming into Kansas at all when a great deal of the state is comprised of one-price markets — that is, premium beer and popular priced beer selling for the same amount over the bar.

Well, despite the fact that in most places you can get a bottle of Budweiser for the same price as you pay for a bottle of popular priced beer, these popular priced beers do 56% of the total business in the state of Kansas. Just think of that.

Respondent's Exhibit 172

(1519)

With Budweiser alone your potential is only 44% of the total market. With Budweiser and Busch Bavarian your potential is increased by 56% and it becomes 100% of the total market.

This is a tremendous opportunity for every wholesaler in Kansas for additional revenue and additional profits.

Busch Bavarian with your Budweiser will make your organization bigger, more newsworthy, more stable, and will command more respect in your community.

Let me make one important point right now — Busch Bavarian will not hurt your Budweiser sales.

To be honest with you, when we first introduced another Anheuser-Busch product with Budweiser in St. Louis, we didn't know whether it would cut into the Budweiser sales. We wanted to find out, and we did.

Our experience has proven not only in St. Louis but in every market where we have introduced Busch beer, that the introduction of Busch did not hurt Budweiser sales.

Much to the contrary, it helped Budweiser sales.

(1526)

I know this is good news to all of you because we want to do nothing that will hurt Budweiser in any way.

Respondent's Exhibit 172

Now, let's get down to some brass tacks — the following Busch Bavarian packages will be available: Pints, regular cans, 8/6 cans, and quarts. It will be packaged in both 5% and 3.2% and for the time being at least there will be no Busch Bavarian draught beer.

I won't go into the pricing now because I want to talk to each wholesaler individually after this meeting. But Busch Bavarian will be competitive with the so-called popular priced beers in your market.

In the one-price markets, therefore, Busch Bavarian will sell over the bar for the same price as popular priced beers and premium price beers. Of course, it will be priced lower — that is, the same as popular priced beers — to take out.

In the individual meetings we will also give you the consumer advertising schedule for your market and in addition to covering a number of other points, we will also take your order for Busch Bavarian beer.

(1521)

It is expected that shipments will begin from St. Louis on Tuesday, August 16, and that you will begin to sell Busch Bavarian in your market on Monday, August 22.

I am sure I don't have to tell you wholesalers how to introduce a new package, but let's just briefly go over a few points.

Respondent's Exhibit 172

First of all, a letter of announcement (announcement card) should be sent to each of the retailers in your market. I have a sample of one here, and we will provide a similar sample to each of you during our individual meetings.

It is important to sample consumers whenever and wherever you find them. Mass sampling should be accomplished at every opportunity. When you are required to donate some beer for special functions, make it a donation of Busch Bavarian.

It's a good idea also to send a donation of Busch Bavarian to key people in your market and at the same time elicit their support for Busch Bavarian.

You should use every publicity gimmick you can think of. Perhaps you will want to send the first case of Busch Bavarian to the Mayor of your city. Perhaps you can take pictures of yourself and one of your driver salesmen unloading the first (1522) case of Busch Bavarian from your car or delivering the first case to a prominent retailer. Very often these ideas are considered newsworthy by newspapers and they will be published.

I know you can think of other publicity ideas that will be effective in your individual markets.

Speaking of sampling, I think it is about time that I sampled you. So, men, let's all stretch a minute and enjoy a bottle of Busch Bavarian beer.

(Call the meeting to order)

Respondent's Exhibit 172

Well, men, what do you think about Busch Bavarian? (Wait for answer) Isn't it one of the finest beers you have ever tasted? (Wait for answer) Do you think you will be able to sell it? You bet you will!

One of the most important sources of sales is chain stores. Where chain store headquarters are located in your market, be sure to get the headquarters approval for Busch Bavarian and the pricing factors understood. We will help you with this.

(1523)

Solicit the support of your suppliers, your banker, make sure all bartenders, waiters, waitresses, clerks — everyone in the business, knows about Busch Bavarian, its quality, and its pricing.

I am going to ask each wholesaler to prepare a 3 x 5 card for each retail outlet in his territory. These will be used by Anheuser-Busch men who come into your market to help you get quick distribution. We will tell you more about this in the individual meetings.

Every wholesaler in this room should prepare a carefully-planned campaign and outline it to his driver salesmen and salesmen before the sale of Busch Bavarian begins in your market.

Most important, of course, is 100% distribution and availability of Busch Bavarian priced correctly. The men who have to do this job are the key employees of any whole-

Respondent's Exhibit 172

salor organization — that is the driver salesmen and salesmen.

Driver salesmen and salesmen are the most important link in the chain of distribution. The success or failure of Busch Bavarian depends upon your salesmen and driver salesmen who are on the firing line every day with every retailer.

(1524)

I am going to ask John Hallquist, who is an old friend of yours and who is now coordinating all Busch Bavarian activities, to tell you something about his experience in introducing a new product in other markets. John.....

Thanks, John.

What you had to say was, I am sure, the backbone of a successful plan to introduce Busch Bavarian, and I know Busch Bavarian is going to be a tremendous success in Kansas.

Anheuser-Busch is with you all the way. Mr. Busch himself is taking a personal interest in this campaign and will be watching Kansas as will all of us.

We think we have a sure-fire theme, and we know it can't miss, if we get the distribution quickly and effectively. We are sure you can do it, but to be doubly sure, we are putting fourteen extra Anheuser-Busch men in the state to help you. These men will be in every territory and will call on every retailer.

Respondent's Exhibit 172

(1525)

Point-of-sale material has already been ordered for you and is on the way, and you can order more as you need it.

The advertising campaign is set to go.

Our extra men are on the way and our St. Louis executives will be in various markets from time to time to help you.

Let's leave no stone unturned in this all-out drive to make Busch Bavarian one of the most important factors in Kansas.

If you need anything or can think of anything we should do, please don't hesitate to call us.

We know Busch Bavarian will be a success for Anheuser-Busch and for you and with your help and enthusiastic support we can't miss.

If you fellows feel the same way, send a telegram to Mr. Busch. Tell him what you think of Busch Bavarian. Tell him what distribution you are going to get, how soon, and how much you expect to sell. I know he will appreciate it.

(1526)

Now, our part of this program is through except for the individual meetings, but I am sure you men must have lots of questions about Busch Bavarian, and we are up here to answer them for you.

Who is the first one with a question?

Respondent's Exhibit 173

November 22, 1955

New Packages and New Products Introduced by Anheuser-Busch

Since January 1, 1954 to Meet Competition

Report Covers Period January 1, 1954 Through September 30, 1955

BUDWEISER										BUSCH LAGER				BUSCH BAVARIAN		
10 oz. Cans			10 oz. N.R. Bottles		10 oz. Ret. Bottles		5th N. R. Bottles		5th Ret. Bottles		Package Beer		Draught Beer		Package Beer	
Month First Sold In State	No. of Markets Shipped In 1955		Month First Sold In State	No. of Markets Shipped In 1955	Month First Sold In State	No. of Markets Shipped In 1955	Month First Sold In State	No. of Markets Shipped In 1955	Month First Sold In State	No. of Markets Shipped In 1955	Month First Sold In State	No. of Markets Shipped In 1955	Month First Sold In State	No. of Markets Shipped In 1955	Month First Sold In State	No. of Markets Shipped In 1955
State																
Alabama	12/54	9									7/55	1				
Arkansas	1/55	10					3/55	10	7/55	3	7/55	3				
Colorado							7/55	6								
Delaware							1/55	1					3/55	1		
Dist. of Col.	1/55	1														
Florida	2/55	8														
Georgia	8/55	2					2/55	7								
Illinois	12/54	33							3/55	2	3/55	21				
Iowa	12/54	20					9/55	1	9/55	1					8/55	20
Kansas	2/55	12														
Kentucky	12/54	5														
Louisiana	12/54	10	4/55	1	4/55	2	4/55	5			8/55	1				
Maine			2/55	1												
Maryland	12/54	6									6/55	4	9/55	1		
Massachusetts	1/55	8	12/54	10												
Minnesota	1/55	1														
Mississippi	2/55	6					4/55	7	5/55	1	7/55	2				
Missouri	1/55	16					4/55	2			3/55	24			8/55	3
Nebraska											7/55	2				
New Jersey			1/55	1			11/54	8	5/55	3	6/55	4	6/55	4		
New Mexico							8/55	1								
New York							11/54	16	6/55	2	6/55	6	6/55	6		
North Carolina	12/54	1														
Oklahoma	12/54	14					4/55	2	2/55	12	5/55	3				
Pennsylvania													3/55	38		
South Carolina							4/55	2					8/55	1		
Tennessee	1/55	8									6/55	4				
Texas											4/55	35				
Utah	8/55	5	8/55	5	8/55	5	8/55	5								
Totals		175		18		11		81		15		107		51		23

Respondent's Exhibit 175

(1528)

PABST BLUE RIBBON

BEER ALE

SPECIAL BULLETIN

CAVANAGH — BOOTH SALES

2908 Brammon Ave.

March 12, 1955

PR - 3 - 6661

Dear Customer:

Perhaps you have been bewildered about the recent raises in beer prices in St. Louis and St. Louis County and yet you have had no official notice about a "Pabst Blue Ribbon" price raise.

For 110 years Pabst Brewing Co. has brewed and served you the "Finest Beer Served . . . Anywhere". The tremendous increase in sales of our fine beer is very gratifying to us and we appreciate it very much. This shows that more and more consumers are realizing the fine flavor and quality of Pabst Blue Ribbon Beer.

Pabst Brewery, like all industries has faced increase costs in labor and raw materials; yet in the face of this predicament we have tried to hold the price line as long as possible. We are sorry but we must go up.

Our new price schedule which follows becomes effective March 28, 1955, and is made available as far ahead as possible so that your inventories may be adjusted to your best advantages.

Respondent's Exhibit 175

24/12 oz. Returnable Bottles (Beer & Ale)	\$2.80 plus 60¢ Dep.
12/32 oz. Non-Returnable Quarts	3.70
36/ 7 oz. Returnable Club Bottles	2.70 plus 96¢ Dep.
12/12 oz. Cans	1.61
24/12 oz. Cans	3.34
48/12 oz. Cans (Packed in Handy Six)	6.68
24/12 oz. Non-Returnable Bottles	3.25
****24/16 oz. Cans (Packed 6 Pkg. of 4 Cans Each)	Only \$.99****

Hoping for your continued friendship to us and Pabst
Blue Ribbon Beer.

Cordially

Arthur J. Roufa
President

1479

1529

Respondent's Exhibit 176

Original Griesedieck Bros.



Griesedieck Bros. Brewery Company

1920 SHENANDOAH AVE. • SAINT LOUIS 4, MISSOURI • PROSPECT 13900

Announcing . . .

GB HOLIDAY BONUS SPECIAL!

To show our appreciation to the thousands of St. Louisans who are already enjoying Krausened GB — to encourage others to try Krausened GB — and to give you a Holiday Bonus of increased GB beer sales and extra profits.

Here is your chance to save up to

20¢ a case on Krausened GB - - -

St. Louis' most talked-about beer!

For the holiday period — from Monday, November 15, through Friday, December 31 — GB customers in St. Louis and St. Louis County only will be able to buy Krausened GB at Holiday Bonus prices for **one-stop quantity deliveries**.

Check this Holiday Bonus Price List . . . Place your quantity delivery order now on the special Holiday Bonus Order Card enclosed.

TOTAL NUMBER OF CASES FOR ONE-STOP DELIVERY	RETURNABLE		C A N S			NON-RETURNABLE		
	24 - 12 oz.	12 - 32 oz. (Quarts)	24 - 12 oz.	48 - 12 oz. (6 Paks)	12 - 12 oz.	12 - 32 oz. (Quarts)	24 - 12 oz. (Monday 6)	12 - 12 oz.
3 to 9 cases inclusive	\$2.35	\$2.96	\$2.99	\$6.08	\$1.51	\$3.11	\$2.83	\$1.37
10 to 19 cases inclusive	2.30	2.90	2.94	5.98	1.49	3.11	2.83	1.37
20 to 34 cases inclusive	2.25	2.83	2.89	5.88	1.46	3.11	2.83	1.37
35 to 49 cases inclusive	2.20	2.76	2.84	5.78	1.44	3.11	2.83	1.37
50 cases and over	2.15	2.70	2.79	5.68	1.41	3.11	2.83	1.37

THE QUANTITY PRICE BRACKET IS DETERMINED BY THE TOTAL NUMBER OF CASES PER DELIVERY IN ANY COMBINATION PACKAGES. Cartons containing 6 6-can packs count as two cases. Cartons of 12 12-oz. cans or bottles count as half a case.

Deposits on returnable cans and bottles remain unchanged.

Brewed the Old World Way . . . for the Taste of Today

Respondent's Exhibit 177-A/B

(1530)

[LETTERHEAD OF]

GRIESEDIECK BROS. BREWERY COMPANY

February 23, 1955

Dear GB Retailer:

As you know, we are constantly seeking to improve the quality of GB beer to include all of the characteristics that discriminating beer drinkers want.

Despite the fact that our costs of producing and distributing GB have risen steadily for some time, we have sought to hold the line on prices. However, we now find it necessary to increase the price of GB to bring it into line with our higher costs of doing business.

The attached new price list will become effective, Monday, March 7, 1955.

As always, your GB salesman and driver as well as our telephone order department stand ready to give you prompt, friendly service on all your orders for GB finest quality beer.

Sincerely yours,

Griesedieck Bros. Brewery Company

Edward J. Griesedieck
President

EJB/brf
Enc.

Respondent's Exhibit 177

(1531)

*Finest Quality G B**Price Schedule Effective March 7, 1955**Retail licensees in St. Louis and St. Louis County*

<i>Package</i>	<i>Beer Price</i>	<i>Container Deposit</i>
24-12 oz. Returnable (export)	\$ 2.50	\$.60
12-32 oz. Returnable (quarts)	3.05	.60
24-12 oz. Cans	3.14	none
48-12 oz. Cans — (8/6 pack)	6.28	none
48-12 oz. Cans — (4/12 pack)	6.28	none
12-32 oz. Non-Returnable (quarts)	3.30	none
24-12 oz. Non-Returnable (4/6 pack)	3.05	none
12-12 oz. Non-Returnable	1.52	none
Draught — Full Barrel	24.96	9.00
1/2 Barrel	12.48	6.00
1/4 Barrel	6.36	12.00

Federal and Missouri State taxes are included in above prices.

Prices are subject to change without notice.

Respondent's Exhibit 179-A/B

32)

**Lesedieck Bros. Package Beer Losses (24 12-oz. Equivalent Cases) in
St. Louis and St. Louis County Compared to Losses Outside**

	<i>St. Louis City & Co.</i>	<i>E. St. Louis</i>	<i>Whole- salers</i>	<i>Total</i>
6 mos. 1952	1,034,524	97,324	4,036,175	
6 mos. 1953	901,931	89,811	3,699,146	
Loss	—132,593	—7,513	—337,029	—477,135
% of Loss	27.7%	1.7%	70.6%	100.0%
6 mos. 1952	1,094,465	109,707	3,815,557	
6 mos. 1953	952,106	102,248	3,730,784	
Loss	—142,359	—7,459	—84,773	—234,591
% of Loss	60.6%	3.3%	36.1%	100.0%
6 mos. 1953	901,931	89,811	3,699,146	
6 mos. 1954	784,835	80,978	3,555,746	
Loss	—117,096	—8,833	—143,400	—269,329
% of Loss	43.5%	3.3%	53.2%	100.0%
6 mos. 1953	952,106	102,248	3,730,784	
6 mos. 1954	585,636	82,018	3,009,953	
Loss	—366,470	—20,230	—720,831	—1,107,531
% of Loss	33.1%	1.8%	65.1%	100.0%
6 mos. 1954	784,835	80,978	3,555,746	
6 mos. 1955	424,577	62,298	2,507,113	
Loss	—360,258	—18,680	—1,048,633	—1,427,571
% of Loss	25.2%	1.4%	73.4%	100.0%

Respondent's Exhibit 179

(1533)

	<i>St. Louis City & Co.</i>	<i>E. St. Louis</i>	<i>Whole- salers</i>	<i>Total</i>
Last 6 mos. 1954	585,636	82,018	3,009,953	
Last 6 mos. 1955	464,824	71,962	2,361,121	
Loss	—120,812	—10,056	—648,832	—779,700
% of Loss	15.5%	1.3%	83.2%	100.0%

Respondent's Exhibit 183-G

SPECIAL PRICING SURVEY—SEPTEMBER 1955

PRICE TO RETAILER

BRAND NAME	CLASS	Per case 24-12 oz. returnable bottles less deposit		Per case 48-12 oz. Cans 8 6	
		Flat-Max.	Quan-Min.	Flat-Max.	Quan-Min.
Lucky Lager	L	2.87		7.02	
Bergie	L	2.87		7.02	
Heal	L	2.87		7.02	
Emms	R	2.88		7.02	
Empia	R	2.89		7.02	
Elstaff	L	2.87		7.02	
Gabel	R	2.69		6.66	
Salitz	N	3.40		7.48	
Pabst	N	3.42		7.42	
Blatz	N	3.40		7.18	
Miller	N	3.99		8.20	
Belweiser	N	3.49		7.39	

Number of outlets selling On-Premise ONLY None
 Number of outlets selling BOTH On-Premise and Off-Premise 4000 (2000
 Number of outlets selling Off-Premise ONLY /2000

TOTAL number of licensed outlets 4000

Name Anheuser Busch, Inc.

City & State San Francisco, Calif.

Signed by A. Penney Date 9 23 55

Respondent's Exhibit 184-F

(1611)

SPECIAL PRICING SURVEY—SEPTEMBER 1955

• • •

PRICE TO RETAILER

BRAND NAME	CLASS	Per case 24-12 oz. returnable bottles less deposit		Per case 48-12 oz. Cans 8 6	
		Flat-Max.	Quan-Min.	Flat-Max.	Quan-Min.
Budweiser	N	3.65		7.50	
Schlitz	N	3.65		7.50	
Pabst	N	3.65		7.45	
Millers	N	3.65		7.50	
Hamm's	R	3.35		7.38	
Falstaff	R	2.95	25/2.84	6.70	25 3.25
Coors—11 oz.	L	2.87		6.48	
Tivoli	L	2.50		6.18	

• • •

Number of outlets selling On-Premise ONLY		539/65
Number of outlets selling BOTH On-Premise and Off-Premise	462	136
Number of outlets selling Off-Premise ONLY		326

TOTAL number of licensed outlets 1001

Name Anheuser-Busch, Inc.

City & State Denver, Colorado

Signed by (Illegible) Date 9 29 55

Br. Mgr.

Respondent's Exhibit 190-L

575)

SPECIAL PRICING SURVEY—SEPTEMBER 1955

PRICE TO RETAILER

BRAND NAME	CLASS	Per case 24-12 oz. returnable bottles less deposit		Per case 48-12 oz. Cans 8 6	
		Flat-Max.	Quan-Min.	Flat-Max.	Quan-Min.
Beckweiser	N	3.44	1-25 3.30	7.65	1-25 7.36
Schlitz	N	3.40	3.40	7.65	7.65
Millers	N	3.42	3.42	7.65	7.65
Hamms	R	3.40	1-25 3.27	7.65	1-25 7.36
Pabst	N	3.42	1-25 3.29	7.65	1-25 7.36
Blatz	N	3.00	3.00	6.85	6.85
Old Style Lager	R	3.20	1-25 3.08	7.18	1-25 6.90
Drewry's	L	2.77	100/2.57	6.74	100 6.34
Meister Brau	L	2.78	100/2.58	6.72	100 6.32
Fox De Luxe	L	2.78	50 2.58	6.72	50 6.52
Tavern Pale	L	2.76	30 2.56	6.72	30 6.52
Prager	L	2.77	100/2.57	6.74	100 6.54

Number of outlets selling On-Premise ONLY	2027/4387
Number of outlets selling BOTH On-Premise and Off-Premise	2360
Number of outlets selling Off-Premise ONLY	295

TOTAL number of licensed outlets	4682
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Name ANHEUSER-BUSCH, INC.

2367 Logan Blvd.,

City & State Chicago, Illinois

Signed by S. J. Niede Date Sept. 29, 1955
(Logan Branch)

Repondent's Exhibit 190-Z17

(1706)

SPECIAL PRICING SURVEY—SEPTEMBER 1955

PRICE TO RETAILER

BRAND NAME	CLASS	Per case 24-12 oz. returnable bottles less deposit		Per case 48-12 oz. Cans 8 6	
		Flat-Max.	Quan-Min.	Flat-Max.	Quan-Min.
BUDWEISER	N	3.44	1 for 25 3.30	7.65	1 for 25 7.36
SCHLITZ	N	3.40	3.40	7.65	7.65
MILLER	N	3.42	3.42	7.65	7.65
HAMMS	R	3.40	1 for 25 3.27	7.65	1 for 25 7.36
PABST	N	3.42	1 for 25 3.29	7.65	1 for 25 7.36
BLATZ	N	3.00	3.00	6.85	6.85
OLD STYLE LAGER	R	3.20	1 for 25 3.08	7.18	1 for 25 6.90
DREWRY'S	L	2.77	100— 2.57	6.74	100— 6.34
MEISTER BRAU	L	2.78	100— 2.58	6.72	100— 6.32
FOX DE LUXE	L	2.78	100— 2.58	6.72	100— 6.32
ATLAS PRAGER	L	2.75	100— 2.55	6.74	50— 6.34
NECTAR	L	2.68	25— 2.53	6.68	25— 6.38
MONARCH	L	2.73	50— 2.53	6.70	25— 6.30
Number of outlets selling On-Premise ONLY					1,694/3887
Number of outlets selling BOTH On-Premise and Off-Premise					2,193
Number of outlets selling Off-Premise ONLY					369

TOTAL number of licensed outlets 4,256

Name ANHEUSER-BUSCH, INC.—KIMBARK BRANCH
City & State CHICAGO, ILL.

Signed by J. G. Bollinger Date 9 29 55
J. G. BOLLINGER, BR. MGR.

Respondent's Exhibit 196-D

4)

SPECIAL PRICING SURVEY--SEPTEMBER 1955

* * *

PRICE TO RETAILER

BRAND NAME	CLASS	Per case 24-12 oz. returnable bottles less deposit		Per case 48-12 oz. Cans 8 6	
		Flat-Max.	Quan-Min.	Flat-Max.	Quan-Min.
Beck's	N	4.11	Same	8.50	Same
Caragansett	R	3.51	Same		
Chelitz	N	4.11	Same	8.50	Same
Coopers	N	3.32	Same	7.74	Same
Sanidt	N	3.33	Same	7.46	Same
Erger	R	3.60	Same	7.90	Same
East	N	4.11	Same	8.50	Same
Eisenreffer	R	4.11	Same		None
Schaeffer	N	4.11	Same	7.86	Same
Miller	N	3.88	Same	8.50	Same
Harvard	R	3.32	Same	6.00	Same
Standard Brew.	R	3.40	Same	6.70	Same
Dawson	R	3.25	Same		None

* * *

Number of outlets selling	On-Premise ONLY	82
Number of outlets selling	BOTH On-Premise and Off-Premise	
Number of outlets selling	Off-Premise ONLY	389

TOTAL number of licensed outlets 471

Name Waterville Fruit & Produce Co., Inc.

City & State Waterville, Maine

Signed by H. B. Brody Date September 27, 1955

Respondent's Exhibit 198-A

(1848)

SPECIAL PRICING SURVEY—SEPTEMBER 1955

PRICE TO RETAILER

BRAND NAME	CLASS	Per case 24-12 oz. returnable bottles less deposit		Per case 48-12 oz. Cans 8 6	
		Flat-Max.	Quan-Min.	Flat-Max.	Quan-Min.
Budweiser	N	3.69		7.94	
Schlitz	N	3.69		8.00	
Pabst	N	3.69		7.96	
Millers	N	3.69		7.94	
Ballantine Beer	R	3.11		7.14	
Ballantine Ale	R	3.37		7.82	
Ruppert Beer	R	3.11		7.24	
Carlings Ale	R	3.37		7.82	
Schaefer	R	3.11		7.24	
Krueger Beer	R	3.11		7.14	
Naragansett Ale	L	3.02		—	
Pickwick Ale	L	3.20		—	
Dawson Beer	L	2.83	25/2.78	—	
Harvard Ale	L	3.57	25/3.52	6.74	
Hampden Ale	L	2.75	100/2.70	—	

Number of outlets selling On-Premise ONLY

Number of outlets selling BOTH On-Premise and Off-Premise

Number of outlets selling Off-Premise ONLY

TOTAL number of licensed outlets

Name August A. Busch & Company of Mass., Inc.

City & State Cambridge, Massachusetts

Signed by C. H. Aston

Date 9/27/55

Respondent's Exhibit 202-E

SPECIAL PRICING SURVEY—SEPTEMBER 1955

PRICE TO RETAILER

BRAND NAME	CLASS	Per case 24-12 oz. returnable bottles less deposit		Per case 48-12 oz. C ns 8 6	
		Flat-Max.	Quan-Min.	Flat-Max.	Quan-Min.
Anheuser-Busch	N	3.15		6.90	
Ballitz	N	3.20		6.98	
Beist	N	3.15		6.90	
Biers	N	3.20		6.98	
Bams	R	3.20		6.98	
Country Club	L	2.55	25/2.45	6.50	25/6.30
Mehlebach	L	2.55	25/2.45	6.30	25/6.10
Palstaff	R	2.65	10/2.60	6.40	
P.B.	L	2.60		6.30	

Number of outlets selling On-Premise ONLY	78
Number of outlets selling BOTH On-Premise and Off-Premise	505
Number of outlets selling Off-Premise ONLY	550

TOTAL number of licensed outlets 1133

Name Anheuser-Busch, Inc.

City & State Kansas City, Missouri

Signed by M. Q. Zelinsky Date Sept. 27, 1955

Respondent's Exhibit 204-B

(1956)

SPECIAL PRICING SURVEY—SEPTEMBER 1955

PRICE TO RETAILER

BRAND NAME	CLASS	Per case 24-12 oz. returnable bottles less deposit		Per case 48-12 oz. Cans 8 6	
		Flat-Max.	Quan-Min.	Flat-Max.	Quan-Min.
Budweiser	N	3.30	—	6.98	—
Schlitz	N	3.30	—	6.98	—
Pabst	N	3.30	—	6.98	—
Miller's	N	3.30	—	7.00	—
Old Style	R	3.30	—	6.98	—
Country Club	R	2.90	25/2.65	6.58	—
Hamm's	R	3.20	—	6.98	—
Metz	L	2.50	50/2.40	6.50	50/6.30
Falstaff	L	2.50	—	6.50	—
Storz Premium	L	3.00	—	6.58	—
Storz Triumph	L	2.50	—	—	—

Number of outlets selling On-Premise ONLY

Number of outlets selling BOTH On-Premise and Off-Premise

Number of outlets selling Off-Premise ONLY

TOTAL number of licensed outlets

Name Capitol Liquors, Inc.

City & State Omaha, Nebraska

Signed by Roy C. Feltman Date 28 Sept. 1955

ROY C. FELTMAN, Pres.

Respondent's Exhibit 208-A

SPECIAL PRICING SURVEY—SEPTEMBER 1955
* * *

PRICE TO RETAILER

BRAND NAME	CLASS	Per case 24-12 oz. returnable bottles less deposit		Per case 48-12 oz. Cans 8 6	
		Flat-Max.	Quan-Min.	Flat-Max.	Quan-Min.
BECK'S	N	3.76		7.97	
BLUES	R	3.32		7.64	
BLITZ	N	3.76		7.97	
BUDWEISER	R	3.65		7.70	
BUTTER	N	3.76		7.96	
CITY LAGER	R	2.91		6.78	
COLLEGE LIFE	N	3.74		7.97	
	R	2.91		6.78	
STAFF	R	3.15		7.00	
STOUT	N	3.46		7.34	
ADIAN ACE	R			6.36	
	R	3.15		7.00	

Number of outlets selling On-Premise ONLY	0
Number of outlets selling BOTH On-Premise and Off-Premise	298
Number of outlets selling Off-Premise ONLY	36
TOTAL number of licensed outlets	334

This report includes the ALBUQUERQUE AREA only

Name RICHARD DISTRIBUTING COMPANY

City & State ALBUQUERQUE, NEW MEXICO

Baldina Zanotti

Signed by BALDINA ZANOTTI, SEC. Date Sept. 27, 1955

Respondent's Exhibit 209-A

(1995)

SPECIAL PRICING SURVEY—SEPTEMBER 1955

PRICE TO RETAILER

BRAND NAME	CLASS	Per case 24-12 oz. returnable bottles less deposit		Per case 48-12 oz. Cans 8 6	
		Flat-Max.	Quan-Min.	Flat-Max.	Quan-Min.
BUDWEISER	N	3.60		7.60	
SCHLITZ	N	3.70		7.60	
MILLER Hi-LIFE	N	3.70		7.60	
PABST	N	3.70		7.60	
IROQUOIS	L	2.65		6.50	
SIMON PURE	L	2.65		6.50	
*STEIN	L	2.65	26 2.50	6.50	13 6.2
*PHOENIX	L	2.65		6.50	
GENESEE	R	2.65		6.50	
CARLING	R	2.50		6.20	
*BALLANTINE	R	2.89	100 2.55	6.80	Not
*UTICA CLUB	R	2.65		6.50	

*Rebate 10 to 20 cents per case to large super markets taking 200 and more at one time.

Number of outlets selling On-Premise ONLY

Number of outlets selling BOTH On-Premise and Off-Premise

Number of outlets selling Off-Premise ONLY

TOTAL number of licensed outlets

Name ANHEUSER-BUSCH, INC.

City & State Buffalo, New York

Signed by J. M. Nally, Branch Mgr.

Date 9-27-55

Respondent's Exhibit 216

74B)

SPECIAL PRICING SURVEY—SEPTEMBER 1955

PRICE TO RETAILER

BRAND NAME	CLASS	Per case 24-12 oz. returnable bottles less deposit		Per case 48-12 oz. Cans 8 6	
		Flat-Max.	Quan-Min.	Flat-Max.	Quan-Min.
Belweiser	N	3.70	3.60	7.68	7.48
Blitz	N	3.70	3.60	7.68	7.48
Post	N	3.70	3.56	7.68	7.38
Mers	N	3.70	3.56	7.68	7.48
Expert	R	2.88	2.88	6.84	6.84
Staefer	R	2.88	2.78	6.84	6.64
Belantine Beer	R	2.88	2.78	6.84	6.64
Sea Club	R	2.85	2.74	6.70	6.44
Harlings Beer	N	2.72	2.62	6.54	6.34
Farley's Beer & Ale	L	2.72	2.52	—	—
Dawson's Beer & Ale	L	2.73	2.53	—	—
Darragansett	L	2.72	2.62	—	—
Belantine Ale	R	3.60	3.50	7.70	7.50
Carling's Ale	N	3.40	3.30	7.70	7.50

Number of outlets selling On-Premise ONLY	1478
Number of outlets selling BOTH On-Premise and Off-Premise	none
Number of outlets selling Off-Premise ONLY	383

TOTAL number of licensed outlets	1861
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Name McLAUGHLIN & MORAN, INC.

City & State CUMBERLAND HILL, R. I.

Signed by Peter L. Hogue, Sales Mgr.

Date September 26, '55

1490

Respondent's Exhibit 220-E

(2209)

SPECIAL PRICING SURVEY—SEPTEMBER 1955**PRICE TO RETAILER**

BRAND NAME	CLASS	Per case 24-12 oz. returnable bottles less deposit		Per case 48-12 oz. Cans 8 6	
		Flat-Max.	Quan-Min.	Flat-Max.	Quan-Min.
BUDWEISER		\$3.55		\$7.50	
SCHLITZ		3.70		7.94	
MILLERS		3.70		7.94	
FAESTAFF	R	2.95		7.10	
JAX	R	2.95		7.10	
PEARL	L	2.85		7.10	
LONE STAR	L	2.85		7.10	

Number of outlets selling On-Premise ONLY

Number of outlets selling BOTH On-Premise and Off-Premise

Number of outlets selling Off-Premise ONLY

*TOTAL number of licensed outlets

Name BEN E. KEITH Co.

City & State DALLAS, TEXAS

Signed by Dale Edwards

Date Sept. 30, 1955

Respondent's Exhibit 226-1

.05)

SPECIAL PRICING SURVEY—SEPTEMBER 1955

PRICE TO RETAILER

BRAND NAME	CLASS	Per case 24-12 oz. returnable bottles less deposit		Per case 48-12 oz. Cans 8 6	
		Flat-Max.	Quan-Min.	Flat-Max.	Quan-Min.
WEISER	N	2.95		6.78	
LATZ	R	2.95	*	6.78	*
SELITZ	N	2.95	*	6.78	*
ERST	N	2.94	*	6.76	*
MLER	N	2.95	* * *	6.78	*
GETELMAN	L	2.95	50 2.75	6.78	50 6.58
ELEMAN	R	3.05	25 2.96	6.98	25 6.76
EMM	R	2.95	25 2.82	6.78	25 6.52
BER-WAUKESHA	L	2.83	50 2.44	6.90	10 6.27
	R	1.95		5.00	
WEST BEND LITHIA	L	2.25		6.00	
BEWERY'S	R	2.61	20 2.09	6.10	
OPHY	R	2.00		5.50	
BRÄUMEISTER	L	2.65	50 2.50	6.66	50 6.36
ELWEISS	R	2.00		5.60	

There are various quantity discounts (deals)
but no specific information is available

Number of outlets selling On-Premise ONLY	200)
Number of outlets selling BOTH On-Premise and Off-Premise	2905 (3105
Number of outlets selling Off-Premise ONLY	1213

TOTAL number of licensed outlets	4318
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Name W. W. Sheinfeld

City & State Milwaukee, Wisconsin

Signed by W. W. Sheinfeld Date Sept. 29, 1955

Respondent's Exhibit 229

(2324)

RECAPITULATION OF ANHEUSER-BUSCH
BEER SALES 1941 - 1955

<i>Year</i>	<i>Barrels</i>	<i>% of Industry</i>
1941	3,089,954	5.38%
1942	3,492,343	5.41
1943	3,569,031	4.91
1944	3,692,352	4.64
1945	3,529,469	4.33
1946	3,026,413	3.83
1947	3,608,738	4.14
1948	4,042,181	4.77
1949	4,526,115	5.36
1950	4,888,732	5.90
1951	5,479,314	6.54
1952	6,034,443	7.11
1953	6,711,222	7.80
1954	5,828,760	7.00
1955	5,616,793	6.61

Respondent's Exhibit 230-A/D

-Verified by Company
 -Estimated
 -Trade Publications

SALES OF LEADING BREWERIES—REPEAL THRU 1955

(Includes all breweries whose reported 1955 sales were 1,000,000 barrels or more)

(B) <i>Anheuser- Busch</i>	(V) <i>Schlitz</i>	(V) <i>Pabst⁽¹⁾</i>	(T) <i>Ballantine</i>	(V) <i>Schaefer</i>	(V) <i>Ruppert</i>
647,511	585,000	643,274	} 2,000,000 (c)	200,000	550,812
1,093,223	946,000	979,583		400,000	1,001,594
1,135,776	1,158,000	1,108,929		450,000	1,309,498
1,376,692	1,388,000	1,516,821	927,000	600,000	1,436,686
1,830,960	1,583,000	1,728,792	1,020,000	830,000	1,500,698
2,087,185	1,613,000	1,592,987	1,163,000	1,035,000	1,386,931
2,305,984	1,648,000	1,579,948	1,280,000	1,305,022	1,317,594
2,462,209	1,568,000	1,624,150	1,322,346	1,390,200	1,244,260
3,089,954	1,990,000	2,073,655	1,626,222	1,678,446	1,345,935
3,192,343	2,721,000	2,438,759	1,886,920	1,707,353	1,425,798
3,569,031	3,160,000	2,658,356	2,234,065	1,777,000	1,611,870
3,692,352	3,221,000	2,891,447	2,200,000	1,931,179	1,785,249
3,529,469	3,044,000	2,981,806	2,810,000	2,250,000	1,885,000
3,026,413	2,639,000	3,046,236	2,662,000	2,150,000	1,785,000
3,608,738	4,067,000	3,731,585	3,726,000	2,300,000	1,943,535
4,042,181	4,753,000	4,100,000	4,140,000	2,250,000	1,637,932
4,526,115	4,672,879	4,048,000	4,514,000	1,927,000	1,174,000
4,888,732	5,096,840	3,775,000	4,375,000	2,772,000	1,150,000
5,479,314	5,713,000	4,450,000	4,065,544	2,600,000	1,525,000
6,034,443	6,347,295	4,625,000	4,038,000	2,400,000	1,800,036
6,711,222	5,250,000	4,100,000	3,882,000	2,600,000	2,004,975
5,828,760	5,332,816	3,422,262	3,712,835	2,550,000	1,768,861
5,616,793	5,780,000	3,550,000	3,953,426	2,750,000	1,630,677

⁽¹⁾ Includes Los Angeles

Respondent's Exhibit 230

(2326)

<i>Year</i>	(T) <i>Liebman</i>	(V) <i>Falstaff</i>	(V) <i>Miller</i>	(V) <i>Blatz</i>	(V) <i>Humm</i>	(V) <i>Schmidt</i>
1933	1,000,000 (c)	151,114	256,043	321,911	362,344	10,935
1934		281,227	400,536	401,638	481,150	20,456
1935		374,191	506,248	504,378	463,783	36,205
1936	475,000	528,389	696,813	767,919	536,626	456,600
1937	625,000	690,291	662,670	730,900	643,838	489,420
1938	582,000	621,941	586,780	648,000	683,774	473,125
1939	640,410	622,415	534,670	678,100	700,896	560,460
1940	681,128	684,693	513,503	561,380	600,929	588,880
1941	774,261	1,028,569	608,497	577,855	653,044	611,170
1942	979,113	1,229,197	694,154	701,493	674,533	697,905
1943	1,171,858	1,226,266	707,303	912,000	734,687	731,180
1944	1,275,000	1,254,886	731,470	1,032,353	815,504	784,700
1945	1,325,000	1,337,761	719,698	1,093,000	825,905	792,387
1946	1,300,000	1,148,981	635,035	1,210,000	800,262	580,890
1947	2,100,000	1,651,203	846,446	1,491,205	1,112,928	960,690
1948	2,110,000	2,503,645	910,706	1,375,801	1,123,819	1,090,358
1949	1,875,000	2,474,043	1,329,691	1,625,320	1,037,057	1,139,164
1950	2,565,522	2,286,707	2,105,706	1,761,892	1,052,984	1,068,180
1951	2,800,000	2,294,882	2,612,531	1,789,905	1,149,321	1,115,730
1952	2,900,000	2,276,663	3,042,812	1,665,235	1,380,034	1,212,660
1953	3,100,000	2,911,393	2,138,484	1,064,467	1,685,795	1,573,830
1954	3,000,000	3,289,906	2,101,398	970,632	2,249,491	1,956,270
1955	3,200,000	3,652,821	2,190,858	931,000	3,071,847	1,956,700

* C. Schmidt for 1954 includes sales of Adam Scheidt Brewing Co.—398,112 (Valley Forge).

C. Schmidt for 1955 includes sales of Adam Scheidt Brewing Co.—321,586 (Valley Forge).

Respondent's Exhibit 230

(27)

	(V) <i>Pfeiffer</i> ⁽²⁾	(V) <i>Goebel</i>	(V) <i>Stroh</i>	(V) <i>Lucky Lager</i>	(T) <i>Piel</i>	(V) <i>Carling</i> ⁽⁴⁾
3	—0—	—0—	102,000	—0—	} 1,030,000 (c)	—0—
4	182,728	174,549	424,000	49,101		28,907
5	390,948	364,674	582,000	145,862		72,233
6	261,397	306,545	735,000	260,370		189,490
7	300,904	268,729	725,000	281,133	320,000	388,536
8	380,000	223,038	560,000	252,877	300,000	354,938
9	391,000	272,348	536,447	238,913	305,000	398,827
10	385,000	334,277	497,207	224,249	289,637	351,405
11	427,731	444,361	619,968	294,682	301,545	457,804
12	493,788	472,098	621,358	459,570	341,235	615,263
13	516,763	541,265	582,068	560,111	415,756	719,646
14	537,000	596,855	632,000	579,488	479,000	855,942
15	545,000	638,755	649,000	610,254	522,000	962,594
16	512,000	635,003	543,000	569,520	468,000	730,952
17	779,998	894,232	877,000	670,894	560,000	692,290
18	1,093,664	1,022,274	821,694	693,772	650,000	463,727
19	1,459,617	1,140,295	596,266	857,118	610,000	345,121
20	1,618,077	1,258,333	513,520	1,096,040	767,000	500,952
21	1,574,919	1,426,533	635,920	1,241,515	1,100,000	669,263
22	1,529,631	1,465,427	822,065	1,475,177	1,200,000	893,439
23	1,465,103	1,578,805	1,145,044	1,739,924	1,375,000	1,095,122
24	1,065,704	1,360,731	1,450,190	1,774,686	1,395,000	1,459,122**
25	1,208,200	1,116,410	2,153,098	1,823,540	1,380,000	2,654,619

² Started Business May 1934⁴ Carlings Started Business June 1934^{**} Carlings for 1954 includes Belleville, Illinois, and St. Louis, Missouri, plants for last 2 months of year.

Respondent's Exhibit 230

(2328)

<i>Year</i>	(V) <i>Dreary</i> ⁽³⁾	(V) <i>San Francisco</i>	(T) <i>Coors</i>	(T) <i>Jackson</i>	(T) <i>National</i>	(T) <i>Pea</i>
1933	—0—	73,444				
1934	—0—	91,698				
1935	—0—	97,895				
1936	17,057	131,741				
1937	132,568	120,609		335,000		
1938	130,000	89,000	105,000	315,000	125,000	150,000
1939	195,000	105,000	110,000	340,000	150,000	199,000
1940	255,000	143,000	115,000	350,000		240,000
1941	315,000	162,000	140,000	410,000		294,000
1942	290,000	177,000	239,000	440,000		357,000
1943	330,000	235,000	256,000	475,000	300,000	435,000
1944	312,000	264,000	288,000	425,000	344,000	393,000
1945	335,000	269,000	316,000	451,000	300,000	404,000
1946	331,000	243,000	284,000	390,000	331,000	358,000
1947	533,140	363,000	400,000	485,000	300,000	416,000
1948	494,285	453,000	470,000	478,000	450,000	435,820
1949	601,000	496,000	605,000	600,000	519,000	413,000
1950	730,145	623,426	666,850	705,000	551,000	529,000
1951	838,273	837,750	660,000	697,000	705,000	606,800
1952	1,222,162	996,418	757,149	767,000	775,000	667,780
1953	1,420,195	1,017,997	812,000	934,000	850,000	770,100
1954	1,373,713	1,036,300	921,000	1,006,193	1,200,000	835,800
1955	1,425,465	1,069,661	1,041,000	1,008,500	1,286,102	863,540

⁽³⁾ Started Business 10-1-1936

Respondent's Exhibit 231-A/B

ST. LOUIS and ST. LOUIS COUNTY — PACKAGE BEER BY BREWER

ANHEUSER-BUSCH INC			F A L S T A F F			GRIESEDIECK BROS.			GRIESEDIECK WESTERN			COLUMBIA		
<i>Statistical Cases</i>	<i>Share of Total</i>	<i>% Change Previous Year</i>	<i>Statistical Cases</i>	<i>Share of Total</i>	<i>% Change Previous Year</i>	<i>Statistical Cases</i>	<i>Share of Total</i>	<i>% Change Previous Year</i>	<i>Statistical Cases</i>	<i>Share of Total</i>	<i>% Change Previous Year</i>	<i>Statistical Cases</i>	<i>Share of Total</i>	<i>% Change Previous Year</i>
274,313	33.2	+ 155.9	250,185	30.2	— 0.2	44,140	5.3	— 55.6	223,736	27.0	— 18.1			
497,598	39.3	+ 309.1	369,373	29.1	+ 32.0	60,354	4.8	— 43.7	293,226	23.1	+ .5			
193,478	24.5	+ 48.1	233,447	29.5	— 25.3	68,314	8.6	— 44.7	206,696	26.1	— 38.9			
182,651	19.5	+ 10.1	351,055	37.5	+ .6	67,932	7.3	— 52.3	271,067	28.9	— 23.0			
217,584	19.0	+ 31.5	431,846	37.7	+ 24.6	84,108	7.3	— 39.0	332,132	29.0	— 4.3			
257,641	21.0	— 19.5	461,963	37.7	+ 10.1	89,437	7.3	— 43.4	340,930	27.8	— 17.7			
283,564	21.9	— 47.8	408,260	38.4	+ 34.0	87,713	6.8	— 27.0	348,354	26.8	+ 13.4			
266,729	19.8	— 44.0	529,218	39.3	+ 59.0	94,746	7.0	— 6.8	362,833	27.0	+ 29.2			
233,420	20.0	— 49.0	472,019	40.5	+ 44.4	78,320	6.7	— 18.6	309,354	26.6	+ 18.9			
172,962	19.0	— 53.9	380,130	41.7	+ 28.8	60,488	6.6	— 25.9	242,325	26.6	+ 2.6			
183,692	19.1	— 45.2	401,112	41.8	+ 38.8	62,782	6.6	— 27.6	251,380	26.2	+ 12.0			
219,220	20.7	— 48.0	442,964	41.7	+ 36.3	69,068	6.5	— 20.8	271,543	25.6	+ 13.3			
298,962	23.0	— 17.6	4821,572	37.3	+ 23.7	867,402	6.7	— 35.4	3,453,576	26.7	— 3.1			
107,283	14.0	+ 25.1	250,712	32.7	+ 16.6	99,493	13.0	— 14.7	273,193	35.7	— 12.3			
121,620	14.5	+ 36.8	279,800	33.4	+ 27.0	107,151	12.8	— 12.7	291,829	34.9	— 11.6			
130,663	13.8	+ 31.3	312,598	32.9	+ 24.0	123,552	13.0	— 10.3	338,061	35.6	— 10.3			
165,853	15.6	+ 41.3	349,016	32.6	+ 27.8	142,410	13.3	— 1.3	352,193	32.9	— 10.5			
165,526	15.5	+ 16.5	346,504	32.3	+ 9.1	137,814	12.9	— 16.2	347,192	32.4	— 22.6			
320,127	22.6	+ 86.0	419,739	29.6	+ 4.5	158,098	11.2	— 21.9	414,170	29.2	— 28.9			
542,779	37.6	+ 206.7	371,790	25.7	— 8.2	120,201	8.3	— 46.2	307,126	21.3	— 47.1			
475,897	37.3	+ 19.9	332,896	26.1	— 9.7	101,682	8.0	— 32.7	280,749	22.0	— 32.3			
457,966	37.5	+ 199.6	326,809	26.8	— 9.4	96,171	7.9	— 39.4	260,146	21.3	— 40.3			
374,994	35.7	+ 163.2	295,031	28.1	— 12.0	81,672	7.8	— 42.8	236,158	22.5	— 36.7			
335,326	34.1	+ 196.7	289,066	29.4	— 0.3	86,667	8.8	— 30.5	224,497	22.9	— 29.7			
421,575	38.1	+ 194.3	324,994	29.4	— 7.2	87,256	7.9	— 39.8	239,697	21.7	— 37.7			
3,619,609	27.4	+ 126.5	3,899,015	29.6	+ 3.9	1,342,167	10.2	— 26.8	3,565,011	27.0	— 28.0			

KAGE BEER BY BREWERS

COLUMBIA			HYDE PARK			ALL OTHERS			TOTAL		
<i>Statistical</i>	<i>Share</i>	<i>%</i>	<i>Statistical</i>	<i>Share</i>	<i>%</i>	<i>Statistical</i>	<i>Share</i>	<i>%</i>	<i>Statistical</i>	<i>Share</i>	<i>%</i>
<i>Cases</i>	<i>of</i>	<i>Change</i>	<i>Cases</i>	<i>of</i>	<i>Change</i>	<i>Cases</i>	<i>of</i>	<i>Change</i>	<i>Cases</i>	<i>of</i>	<i>Change</i>
	<i>Total</i>	<i>Previous</i>		<i>Total</i>	<i>Previous</i>		<i>Total</i>	<i>Previous</i>		<i>Total</i>	<i>Previous</i>
		<i>Year</i>			<i>Year</i>			<i>Year</i>			<i>Year</i>
						35,209	4.3	— 0.6	827,783	100%	+ 8.1
						47,324	3.7	+ 28.7	1,267,875	100%	+ 51.4
						88,974	11.3	+ 99.8	790,909	100%	— 16.7
						63,753	6.8	+ 5.9	936,458	100%	— 12.5
						80,569	7.0	+ 9.3	1,146,239	100%	+ 7.0
						76,762	6.2	— 26.9	1,226,733	100%	— 13.4
						79,160	6.1	— 21.4	1,297,051	100%	— 10.1
						93,061	6.9	+ 8.3	1,346,587	100%	+ 5.4
						72,282	6.2	— 9.0	1,115,395	100%	— 4.5
						55,189	6.1	— 11.9	911,094	100%	— 13.3
						60,159	6.3	+ 29.5	959,035	100%	— 2.3
						58,693	5.5	+ 80.8	1,061,488	100%	— 4.0
						811,135	6.3	+ 6.3	12,936,647	100%	— 1.9
						35,407	4.6	+ 12.5	766,088	100%	+ 0.8
						36,765	4.4	+ 20.1	837,225	100%	+ 5.6
						44,535	4.7	+ 19.6	949,409	100%	+ 5.1
						60,183	5.6	+ 41.4	1,069,655	100%	+ 10.2
						73,729	6.9	+ 103.4	1,070,765	100%	— 3.5
						105,050	7.4	+ 92.6	1,417,184	100%	+ 0.3
						100,677	7.1	+ 107.4	1,442,573	100%	+ 0.5
						85,897	6.6	+ 0.2	1,277,121	100%	+ 10.2
						79,409	6.5	— 1.8	1,220,501	100%	+ 3.8
						62,612	5.9	— 15.6	1,050,467	100%	— 1.6
						46,412	4.8	+ 22.0	981,968	100%	+ 11.0
						32,468	2.9	— 33.2	1,105,990	100%	+ 3.2
						763,144	5.8	+ 25.4	13,188,946	100%	+ 3.5

COLUMBIA			HYDE PARK			ALL OTHERS			TOTAL		
<i>Statistical</i>	<i>Share</i>	<i>%</i>	<i>Statistical</i>	<i>Share</i>	<i>%</i>	<i>Statistical</i>	<i>Share</i>	<i>%</i>	<i>Statistical</i>	<i>Share</i>	<i>%</i>
<i>Cases</i>	<i>of</i>	<i>Change</i>	<i>Cases</i>	<i>of</i>	<i>Change</i>	<i>Cases</i>	<i>of</i>	<i>Change</i>	<i>Cases</i>	<i>of</i>	<i>Change</i>
<i>Total</i>	<i>Total</i>	<i>Previous</i>	<i>Total</i>	<i>Total</i>	<i>Previous</i>	<i>Total</i>	<i>Total</i>	<i>Previous</i>	<i>Total</i>	<i>Total</i>	<i>Previous</i>
<i>Year</i>	<i>Year</i>	<i>Year</i>	<i>Year</i>	<i>Year</i>	<i>Year</i>	<i>Year</i>	<i>Year</i>	<i>Year</i>	<i>Year</i>	<i>Year</i>	<i>Year</i>
						31,484	4.1	— 1.4	760,253	100%	— 23.5
						30,624	3.9	+ 18.2	792,673	100%	+ 17.0
						37,223	4.1	+ 34.6	903,537	100%	+ 20.9
						42,559	4.4	+ 8.5	970,898	100%	— 3.8
						36,257	3.3	— 10.4	1,109,238	100%	+ 2.9
						54,531	3.9	+ 12.3	1,413,595	100%	+ 11.7
						48,535	3.4	+ 12.2	1,435,638	100%	+ 8.0
						85,749	7.4	+ 126.3	1,158,929	100%	+ 1.2
						80,862	6.9	+ 196.1	1,175,590	100%	+ 15.7
						74,163	6.9	+ 109.7	1,067,860	100%	+ 8.4
						38,047	4.3	+ 64.4	884,948	100%	+ 3.9
						48,606	4.5	+ 38.8	1,071,402	100%	+ 5.1
						608,640	4.8	+ 45.9	12,744,651	100%	+ 5.1
						45,065	5.8	+ 16.1	780,271	100%	— 5.7
						48,490	5.9	+ 2.5	825,411	100%	— 34.9

Respondent's Exhibit 232

(2331)

St. Louis and St. Louis County Package Beer

versus Company Total

1944 thru 1955

	<i>Total Company Barrels</i>	<i>St. Louis & St. Louis County Package Beer Bbl. Equiv.</i>	<i>% to Total Company</i>
FALSTAFF			
1944	1,254,886	95,559	7.61
1945	1,337,761	85,866	6.42
1946	1,148,981	116,204	10.11
1947	1,651,203	193,858	11.74
1948	2,303,645	273,077	11.85
1949	2,474,043	258,462	10.45
1950	2,286,707	230,336	10.07
1951	2,294,882	210,653	9.18
1952	2,276,663	231,625	10.17
1953	2,911,393	270,456	9.29
1954	3,289,906	284,647	8.65
1955	3,652,821	351,996	9.64
GRIESEDIECK BROTHERS			
1944	426,000	111,755	26.23
1945	461,000	102,103	22.15
1946	413,000	133,393	32.30
1947	618,000	157,590	25.50
1948	534,000	114,412	21.43
1949	694,000	138,289	19.93
1950	810,000	162,037	20.00
1951	817,000	151,612	18.56
1952	825,000	154,530	18.73
1953	776,932	133,832	17.23
1954	643,000	99,469	15.47
1955	461,431	64,559	13.99

Respondent's Exhibit 232

**St. Louis and St. Louis County Package Beer
versus Company Total
1944 thru 1955**

GRIESEDIECK-WESTERN (Including Hyde Park before and after
purchase 11/20/48 and Carling Belle-
ville, Ill. and St. Louis effective Nov.
1954)

	<i>Total Company Barrels</i>	<i>St. Louis & St. Louis County Package Beer Bbl. Equiv.</i>	<i>% to Total Company</i>
1944	752,000	177,879	23.65
1945	789,000	168,174	21.31
1946	766,000	208,008	27.16
1947	1,154,000	320,396	27.76
1948	1,320,000	417,873	31.66
1949	1,385,000	433,082	31.27
1950	1,442,167	420,679	29.17
1951	1,428,429	419,700	29.38
1952	1,052,890	386,876	36.74
1953	1,086,028	364,855	33.60
1954	923,892	259,907	28.13
1955		256,728	

(609)

GRIESEDIECK-WESTERN-STAG BEER

1944	325,000	75,330	23.18
1945	350,000	61,858	17.67
1946	377,000	80,441	21.34
1947	610,000	170,176	27.90
1948	1,026,000	326,408	31.81
1949		384,617	
1950		396,071	
1951		361,163	
1952		368,334	
1953		359,959	
1954		258,936	

Respondent's Exhibit 232

St. Louis and St. Louis County Package Beer
versus Company Total
1944 thru 1955

HYDE PARK PLANT (Purchased by Griesedieck-Western
 11/20/48)

	<i>Total Company Barrels</i>	<i>St. Louis & St. Louis County Package Beer Bbl. Equiv.</i>	<i>% to Total Company</i>
1944	427,000	102,549	24.02
1945	439,000	106,316	24.22
1946	389,000	127,567	32.79
1947	544,000	150,220	27.61
1948	294,000	91,465	31.11
1949		48,465	
1950		24,608	
1951		58,537	
1952		18,542	
1953		4,896	
1954		971	

Excerpts From Respondent's Exhibit 233

(2332)

F A L S T A F F**A N N U A L R E P O R T****1 9 5 5****FALSTAFF BREWING CORPORATION**

(2334)

. . .

ANNUAL LETTER TO THE STOCKHOLDERS

For the first time in Falstaff's history, gross sales passed the \$100,000,000 mark in 1955, reflecting nearly 100 per cent increase over dollar sales of five years ago. This continued growth has resulted in Falstaff attaining fourth place in total sales among the nation's breweries.

Gross sales in 1955 amounted to \$109,941,809, of which \$32,898,767 went for federal excise tax of \$9.00 per barrel, leaving net sales of \$77,043,042. Net sales were 14 per cent higher than the comparable figure of \$67,820,685 achieved in 1954.

Earnings before income taxes were \$9,077,832, as compared to \$6,787,156 in 1954. After provision for income

Excerpts From Respondent's Exhibit 233

taxes of \$4,716,500, net earnings were \$4,361,332 as compared with \$3,025,468 the preceding year.

With 1,922,516 shares of common stock outstanding at the end of the year, earnings per share amounted to \$2.27, compared with \$1.55 in 1954. Dividends of \$1.00 per share of common stock were paid during the year.

* * *

(2335)

• • •

Your management's outlook for the company remains optimistic, as reported last year, and is strengthened in view of 1955 operations. The company expects to surpass its record sales of 1955 and has set a goal of 4,000,000 barrels for the current year. The great depth of sales in our present markets, the sales-fertile territories that adjoin these markets and the will to grow that has characterized the Falstaff family of employees and distributors give your management no doubts as regards the future of Falstaff.

* * *

FOR THE BOARD OF DIRECTORS:

/s/ Alvin Griesedieck
Chairman of the Board

/s/ Joseph Griesedieck
President

March 9, 1956

Excerpts From Respondent's Exhibit 233

(2336)

THE YEAR IN REVIEW

For Falstaff 1955 was a year of continued growth and progress. Although no new plant properties were acquired and the market area was only slightly increased, sales reached an all-time high of 3,652,821 barrels, an increase of 11 per cent over the company record established the preceding year.

These 3,652,821 barrels produced gross sales of \$109,941,809 and, after deduction of federal excise tax, net sales of \$77,043,042. The following table indicates the continuing growth in net sales by quarters for the past three years.

NET SALES BY QUARTERS

	1955	1954	1953
First	\$15,341,027	\$13,440,272	\$ 9,984,046
Second	21,616,585	18,987,763	16,381,445
Third	22,864,063	19,984,325	18,341,476
Fourth	17,221,367	15,408,325	14,277,663
Total	\$77,043,042	\$67,820,685	\$58,984,630

• • •

PLANT PROPERTY

In keeping with previously announced plans, new and more efficient equipment was installed at the Fort Wayne plant, and other Falstaff plants were further modernized

Excerpts From Respondent's Exhibit 233

in an effort to increase efficiency and keep capacity ahead of the increasing demand. In spite of these efforts, however, it became necessary during peak sales months to ration supplies to distributors in some areas.

If the demand for America's Premium Quality Beer grows in 1956 as anticipated, Falstaff's six plants will be hard pressed to supply the demand of peak sales seasons, even in light of additional capacity increases now being undertaken.

SALES

Falstaff's present sales area, covering all or part of only 28 states, contains about one-third of the population of the United States which buys about 29 per cent of the nation's beer. The map on Pages Eight and Nine shows the large area not included in Falstaff's present marketing territory. This area, in which 71 per cent of the nation's beer is sold, represents a tremendous growth potential for the future.

In 1955 Falstaff was marketed through 435 privately-owned distributorships and eight company-owned branches. One of the company's basic principles is that the distributor (2338) must be successful before the company can succeed. In keeping with this principle, Falstaff directed a larger amount of effort in 1955 toward aiding distributors, particularly in the area of sales training. Quarterly sales training programs for every distributor's personnel made up the majority of more than 1,800 sales training sessions conducted by the company last year.

The only major marketing area opened by the company in 1955 was the state of North Dakota where sales operations began during the summer. This fact is significant in view of the company's sales increases as it shows that

Excerpts From Respondent's Exhibit 233

growth in 1955, for the most part, resulted from a more intense saturation of already-existent markets. Against all competition, Falstaff sales amounted to 15 per cent of the total potential of its marketing area, as compared to 13 per cent of its potential in 1954.

ADVERTISING

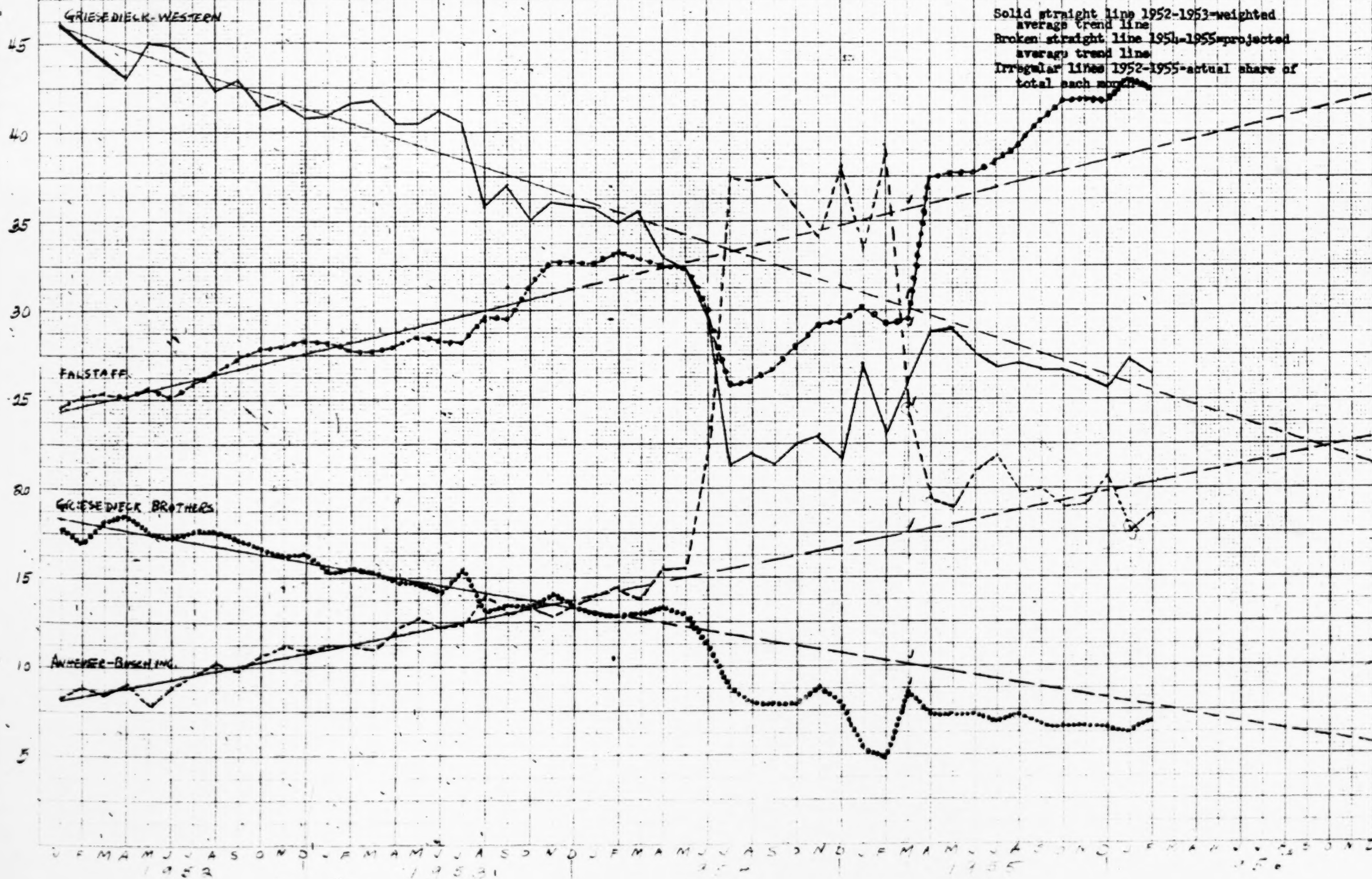
Quality advertising continued in 1955 as another primary factor in the company's sales success. All media were used to advantage with emphasis on television, outdoor advertising, and point-of-sale material. On television, baseball's Game-of-the-Week, featuring Dizzy Dean and Buddy Blattner, led the parade. New audiences were reached through the company's new TV series, Celebrity Playhouse, which features top Hollywood talent in an assortment of drama, comedy and western entertainment. Rod Cameron, as star of the Falstaff-sponsored City Detective, continued to be a favorite of the nation's viewers. (2339)

Heavy use of outdoor advertising—spectaculars, painted bulletins and 24-sheet billboards—made Falstaff the sixteenth largest user of this medium in the United States. Eye-appealing point-of-sale material stressed top quality and permanence and featured Falstaff's three-dimensional gold shield.

(2342)

Recognition of Falstaff's rise as a major force in the brewing industry continued in 1955, as articles in nationally-distributed periodicals cited the company's past achievements and outlook for future growth.

SHARE OF TOTAL PACKAGE BEER SALES IN SAINT LOUIS CITY AND COUNTY



BEFORE FEDERAL TRADE COMMISSION

Docket No. 6331

IN THE MATTER OF ANHEUSER-BUSCH, INC., A CORPORATION

Proposed findings, conclusions, proposed order, and memorandum of law before the hearing examiner

To Hearing Examiner Frank Hier:

Pursuant to Rule 3.19 of the Rules of Practice of the Federal Trade Commission, Francis C. Mayer and Philip R. Melangton, Jr., attorneys supporting the complaint in the above entitled proceeding, submit to the Hearing Examiner their proposed findings, conclusions, proposed order and memorandum of law herein together with the reasons therefore, as hereinafter set forth:

* * * * *

1509 Another pertinent factor in the determination by Anheuser-Busch to lower the price of Budweiser, was its keen competitive awareness of the steady increase in sales of the Falstaff Brewing Company in St. Louis and St. Louis County as well as in all other areas in which Falstaff was offered for sale. Respondent's own sales statistics reflect the steady and significant increase in sales of Falstaff in St. Louis and St. Louis County prior to January of 1954.⁶ No objective analysis of this record as a whole can fail to disclose the concern manifested by Anheuser-Busch regarding the increasing sales of the Falstaff Brewing Company. Almost every statement by company representatives as witnesses together with statements of counsel concerning individual competitors of Anheuser-Busch was directed toward the sales increases of the Falstaff Brewing Company. Respondent's sales statistics disclose that, without any major market disturbances, Falstaff would have become the leading seller on a volume basis in St. Louis and St. Louis County shortly after January 1, 1954.

* * * * *

1510 We must remember that in this instance, the St. Louis competitors while firmly entrenched in that area, were

⁶ RX. 18.

able to maintain a fairly constant sales level in all the other areas in which Anheuser-Busch did not resort to price discriminations.

1511 It is quite clear that the increased sales of Anheuser-Busch in the St. Louis area allowed the respondent to operate profitably within that area, and at the same time receive the benefits of its continued premium prices in other areas.

1512 Before the Federal Trade Commission

FALSTAFF BREWING CORPORATION

ANNUAL REPORT FOR THE YEAR ENDING DECEMBER 31, 1954

1513 *Statement of consolidated income for the years ended December 31, 1954 and 1953*

	Year ended December 31	
	1954	1953
Sales.....	\$97,406,570	\$85,237,723
Less Federal revenue stamps.....	29,643,885	26,253,099
Net sales.....	67,820,685	58,984,620
Cost of goods sold.....	43,328,986	38,159,810
Gross profit.....	24,491,699	20,825,810
Selling and delivery expenses.....	14,575,236	11,577,704
Administrative and general expenses.....	2,429,991	2,106,538
Total.....	17,005,227	13,684,242
Profit from operations.....	7,486,472	7,140,797
Other income.....	224,398	213,811
Gross income.....	7,710,870	7,354,608
Income charges:		
Interest expense.....	226,912	139,441
Other.....	606,732	376,479
Total.....	923,644	515,920
Income before provision for income taxes.....	6,787,156	6,838,677
Provision for income taxes.....	3,761,688	3,556,177
Net income for the year.....	3,025,468	3,282,500

The notes to financial statements should be considered in connection with this statement

NOTES TO FINANCIAL STATEMENTS

1. Under the agreement relating to the note payable, consolidated earned surplus is restricted as to payment of cash dividends or the acquisition of the Company's capital stock, and such dividends and purchases of capital stock are restricted to amounts which will not reduce the consolidated net working capital below \$4,000,000. Under such restrictions the maximum amount of consolidated earned surplus available at December 31, 1954 for cash dividends and purchases of the Company's capital stock is \$2,461,108.

2. The provisions for depreciation of property and amortization of leasehold improvements amounted to \$2,067,804 in 1954 and \$1,716,851 in 1953. The Company and its subsidiary adopted, for accounting and tax purposes, the "declining balance" method of computing the provisions for depreciation and amortization with respect to additions to plant and equipment after January, 1954. As a result of this change in method the provisions for depreciation and amortization in 1954 are approximately \$211,000 in excess of the amounts that would have been provided under the straight line method.

3. The financial statements include the operation of Falstaff Brewing Corporation (Indiana), a wholly-owned subsidiary company, since March 11, 1954, date of incorporation.

1514 Statement of consolidated surplus for the years ended December 31, 1954 and 1953

Paid-in surplus	Year ended Dec. 31	
	1954	1953
Balance at beginning of year.....	\$4,764,753	\$4,746,595
Add: Difference between par value and cost of 4,270 shares in 1954 and 3,084 shares in 1953 of 4½% cumulative preferred stock purchased....	5,677	18,158
Balance at end of year.....	4,770,430	4,764,753
<i>Earned surplus</i>		
Balance at beginning of year.....	12,474,014	11,300,919
Net income for the year.....	3,036,408	2,282,372
Total.....	15,409,482	14,483,291
Deduct—Cash dividends paid or declared on capital stocks:		
4½% cumulative preferred.....	39,437	88,761
Common.....	1,922,516	1,922,516
Total.....	1,961,953	2,009,277
Balance at end of year.....	13,537,529	12,474,014

The notes to financial statements should be considered in connection with this statement.

Respondent's exhibit No. 46

GRIESEDECK WESTERN BREWERY COMPANY

PROFIT AND LOSS STATEMENT FOR THE YEAR ENDED DECEMBER 31, 1951

AND

GRIESEDECK WESTERN BREWERY COMPANY

AND

STAG BEER CORPORATION

CONSOLIDATED PROFIT AND LOSS STATEMENT FOR THE TWO YEARS AND EIGHT MONTHS ENDED AUGUST 31, 1954

	Eight months ended August 31, 1954 (unaudited)
Net sales.....	\$19,399,354.34
Cost of goods sold:	
Cost of manufacture.....	8,813,384.27
Federal revenue stamps.....	5,932,723.57
	14,746,107.84
Gross profit.....	4,653,246.50
Selling and delivery expenses:	
Selling and delivery expenses.....	3,069,214.14
State revenue stamps.....	585,206.42
	3,654,420.56
Selling profit.....	998,825.94
Administration and general expenses.....	294,233.52
Profits from operations.....	704,592.42
Other income.....	79,387.28
Gross income.....	783,979.70
Income deductions—miscellaneous.....	2,045.78
Income—before taxes based on income.....	781,933.92
Federal and Missouri State income taxes.....	468,972.27
Net profit for period.....	312,961.65
Earnings per share of common stock outstanding—after provision for preferred stock dividends.....	0.42

1516

Respondent's exhibit No. 202-K

Before the Federal Trade Commission
Special Pricing Survey—September 1955

Brand name	Class	Price to retailer				Percent of distribution Aug.	
		Per case 24-12 oz. returnable bottles less deposit		Per case 48-12 oz. cans 8/6			
		Flat—Max.	Quan.—Min.	Flat—Max.	Quan.—Min.	91	Off
Budweiser.....	N	2.30	Same	6.68	Same	91	95
Pabst.....	N	2.80	Same	6.68	Same	-----	-----
Schlitz.....	N	2.80	Same	6.68	Same	-----	-----
Falstaff.....	R	2.30	Same	6.28	Same	91	95
Stag.....	L	2.30	Same	6.28	Same	91	95
G.B.....	L	2.30	Same	6.28	Same	91	95

Federal Trade Commission Docket No. 6331 Respondent's
Exhibit No. 202-K

	Budweiser versus regional brands	Budweiser versus local brands
Number of on-premise outlets where there is <i>no difference</i> in over-the-bar price for 12 oz. containers of.....	50	50
Number of on-premise outlets where the <i>difference is 5¢</i> in over-the-bar price for 12 oz. containers of.....	2,700	2,700
Number of on-premise outlets where the <i>difference is 10¢</i> in over-the-bar price for 12 oz. containers of.....	-----	-----

Number of outlets selling On-Premise ONLY	3,130
Number of outlets selling BOTH On-Premise and Off-Premise.....	-----
Number of outlets selling Off-Premise ONLY	1,339
Total number of licensed outlets.....	4,469

Name: City Sales Dept. Anheuser-Busch, Inc.

City and State: St. Louis, Missouri

Signed by (name illegible)

Date 10/3/55

1517 Before the Federal Trade Commission

Docket No. 6331

IN THE MATTER OF ANHEUSER-BUSCH, INC., A CORPORATION

v.

FEDERAL TRADE COMMISSION

Room 532,
FEDERAL TRADE COMMISSION BLDG.,
WASHINGTON, D.C.

Transcript of hearing, Thursday, June 20, 1957

Met, pursuant to notice, at 2:00 p.m.

Before JOHN W. GWYNNE, Chairman; ROBERT L. SECREST,
Member; Edward T. Tait, Member

Appearances: Edgar Barton, Esq., of White and Case, New
York City; Harold F. Baker, Esq., Washington, D.C., and
Edward Wolfe, Esq., Attorneys for the Respondent; Francis
C. Mayer, Esq., Attorney for the Federal Trade Commission.

* * * * *

1518

Colloquy

Commissioner TAIT. I have one question, Mr. Mayer: There is some confusion in my mind on this point. Do you claim that any injury to competition has occurred as a result of the January price decrease?

Mr. MAYER. No, sir; we did not. We consider the two price reductions to be the price discrimination.

Commissioner TAIT. You look at them as one overall picture.

Mr. MAYER. Yes, sir.

Commissioner SECREST. In other words, that was the increase they made to absorb the increases of the labor contract; when their competitors did not do that—they merely went back to where they were before?

Mr. MAYER. Not quite, sir. In St. Louis, you see. Budweiser never did increase its prices. The St. Louis area price didn't reflect the increased costs.

* * * * *

1519 In the United States Court of Appeals for the
Seventh Circuit

No. 12284, September Term, 1958, April Session, 1959

ANHEUSER-BUSCH, INC., A MISSOURI CORPORATION, PETITIONER

v.

FEDERAL TRADE COMMISSION, RESPONDENT

PETITION TO REVIEW AND SET ASIDE ORDER AND DECISION OF THE
FEDERAL TRADE COMMISSION

Opinion

April 13, 1959

Before DUFFY, Chief Judge, and SCHNACKENBERG and KNOCH,
Circuit Judges

SCHNACKENBERG, Circuit Judge. By its petition, Anheuser-Busch, Inc., a Missouri corporation, herein referred to as AB, asks us to review and set aside a cease and desist order issued on September 10, 1957 by the Federal Trade Commission, based upon a complaint charging AB with a violation of section 2(a) of the Clayton Act as amended by the Robinson-Patman Act.¹ 15 U.S.C.A. § 13(a).

¹ "It shall be unlawful for any person engaged in commerce, in the course of such commerce, either directly or indirectly, to discriminate in price between different purchasers of commodities of like grade and quality, where either or any of the purchases involved in such discrimination are in commerce, where such commodities are sold for use, consumption, or resale within the United States or any Territory thereof or the District of Columbia or any insular possession or other place under the jurisdiction of the United States, and where the effect of such discrimination may be substantially to lessen competition or tend to create a monopoly in any line of commerce, or to injure, destroy, or prevent competition with any person who either grants or knowingly receives the benefit of such discrimination, or with customers of either of them: Provided, That nothing contained in sections 12, 13, 14-21, and 22-27 of this title shall prevent differentials which make only due allowance for differences in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which such commodities are to such purchasers sold or delivered: Provided, however, That the Federal Trade Commission may, after due investigation and hearing to all interested parties, fix and establish quantity limits, and revise the same as it finds necessary, as to particular commodities or classes of

1520 In its brief, the Commission states that AB was charged in the complaint with territorial price discrimination. The complaint alleged two price reductions on its beer products made by AB to retailers in the St. Louis, Missouri area during 1954, resulting in substantially lower prices to its customers there than to its customers located elsewhere in the United States. AB's answer consisted in part of a denial and contained an affirmative defense that the reductions were made in good faith to meet the equally low prices of competitors. See section 2(b) of the Clayton Act, amended as aforesaid, 15 U.S.C.A. § 13(b).²

Following hearings before an examiner, he entered an initial decision, in which he made findings of fact and concluded that AB had violated section 2(a) as charged, and entered a
1521 provisional order. The Commission issued its final order now before us, adopting the findings and conclusions of the examiner,³ and filed its opinion.

commodities, where it finds that available purchasers in greater quantities are so few as to render differentials on account thereof unjustly discriminatory or promotive of monopoly in any line of commerce; and the foregoing shall then not be construed to permit differentials based on differences in quantities greater than those so fixed and established: And provided further, That nothing contained in sections 12, 13, 14-21, and 22-27 of this title shall prevent persons engaged in selling goods, wares, or merchandise in commerce from selecting their own customers in bona fide transactions and not in restraint of trade: And provided further, That nothing contained in sections 12, 13, 14-21, and 22-27 of this title shall prevent price changes from time to time where in response to changing conditions affecting the market for or the marketability of the goods concerned, such as but not limited to actual or imminent deterioration of perishable goods, obsolescence of seasonal goods, distress sales under court process, or sales in good faith in discontinuance of business in the goods concerned."

² "Upon proof being made, at any hearing on a complaint under this section, that there has been discrimination in price or services or facilities furnished, the burden of rebutting the prima-facie case thus made by showing justification shall be upon the person charged with a violation of this section, and unless justification shall be affirmatively shown, the Commission is authorized to issue an order terminating the discrimination: Provided, however, That nothing contained in sections 12, 13, 14-21, and 22-27 of this title shall prevent a seller rebutting the prima-facie case thus made by showing that his lower price or the furnishing of services or facilities to any purchaser or purchasers was made in good faith to meet an equally low price of a competitor, or the services or facilities furnished by a competitor."

³ It modified in some respects the provisional order to cease and desist.

The evidence is not in substantial conflict. As found by the examiner, the controlling facts which we deem material here are, in summary, as follows:

At all times relevant in this case, AB, a manufacturer of beers, including Budweiser, sold its beers on a nationwide basis, in competition with other brewers in commerce. AB and four other named breweries selling on a nationwide basis, sold and shipped into all states. They were known as national brewers and their products as national beers. There were throughout the country a number of beers having merely local or regional distribution.

There were many separate marketing areas for beer in the country. Each market had a distinct pattern of prices and the prices charged for the same beers varied among the different marketing areas. While it appears that there was no uniform or constant differential, in the great majority of markets Budweiser and the other national beers were sold at some price higher than the price charged for beers having merely regional or local distribution.

In 1953, a strike closed the plants of the other four national brewers and AB became the nation's leading producer. After the strike, the national brewers generally increased prices, though in varying amounts depending on locality. However, neither AB nor its three local or regional competitors in the St. Louis area⁴ increased their prices on sales in the St. Louis market.

On January 4, 1954 and June 21, 1954, AB reduced its prices on Budweiser beer in the St. Louis market to practically equal those charged for local and regional beers there. These reductions AB did not make elsewhere.

These price cuts, the Commission held, constituted a discrimination in price "as between purchasers differently located". The examiner found, and the Commission concurred, that these price "discriminations" had the effect of diverting substantial business to AB from its competitors in the 1522 St. Louis market; the effect of substantially lessening competition in the line of commerce in which AB and its local competitors "are engaged"; and the further effect of tending to create a monopoly and having the potentialities to continue to do so.

⁴ Falstaff, Griesedieck Western and Griesedieck Brothers.

We find it unnecessary to determine whether the evidence proved the effects to which the Commission alluded, or whether the evidence established AB's affirmative defense of good faith.

The Commission makes it clear that no complaint is made by it as to AB's regular practice of selling its beer at different prices in the different markets of the country. It says:

"We are concerned only with the lowering of the price in one area while maintaining prices in all other areas albeit the maintained prices might be different prices."

"* * * The proceeding was designed to stop a predatory pricing practice, a practice by which a national seller can disrupt any given market to the injury of its local competitors in that market."

"* * * The Commission found the price reductions confined to the St. Louis area to be price discriminations violative of Section 2(a) of the amended Clayton Act. Petitioner maintains there was no violation of law."

We are confronted here with the basic question of whether AB's price cuts in the St. Louis area, which, as contended by the Commission, disrupted that market to the injury of its local competitors in that market, were price discriminations within the proscription of section 2(a). Even if we assume that these cuts were directed at AB's local competitors, they were not discriminatory. AB did not thereby discriminate among its local competitors in the St. Louis area. By its cuts AB employed the same means of competition against all of them. Moreover, it did not discriminate among those who bought its beer in the St. Louis area; all could buy at the same prices. We have here, as far as the St. Louis area is concerned, a non-discriminatory pricing activity, as to which the affirmative defense of good faith becomes relevant only if the price cuts constituted a violation of section 2(a).

Actually the only discrimination claimed is said to result from AB's St. Louis price cuts when it failed to make 1523 similar cuts in other areas. But it is significant that the Commission is not seeking to protect AB's competitors in the other areas. In fact the Commission does not even say that they have been injured. In effect, the situation is that, while the cuts were discriminatory against AB's competitors only in other areas (about which there is no complaint by the Commission) and the effects on AB's local competitors in the St. Louis area were not discriminatory as among them.

the Commission argues that section 2(a) can be used "to stop a predatory pricing practice" in that area. However, it is not every price difference that amounts to a discrimination in price under the Act. Price discrimination means more than a mere difference in price. There must be some relationship between the different purchasers which entitles them to comparable treatment. Inasmuch as the Commission admits that the prices charged in the St. Louis area, on the one hand, and in other areas, on the other hand, were different and that this difference is not the subject of its complaint, it is clear that the mere fact of difference in price resulting from difference of markets, is not price discrimination under the Act. The Commission complains only about the lowering of the price in one area while the prices in all other areas are maintained, albeit the maintained prices might be different from those charged in the area where the lowering took place. But Representative Utterback, a manager of the conference bill which became section 2(a) (80 Cong. Rec. 9416), stated:

"In its meaning as simple English a discrimination is more than a mere difference. Underlying the meaning of the word is the idea that some relationship exists between the parties to the discrimination which entitles them to equal treatment, whereby the difference granted to one casts some burden or disadvantage upon the other. If the two are competing in the resale of the goods concerned, that relationship exists. Where, also, the price to one is so low as to involve a sacrifice of some part of the seller's necessary costs and profit as applied to that business, it leaves that deficit inevitably to be made up in higher prices to his other customers; and there, too, a relationship may exist upon which to base the charge of discrimination. But where no such relationship exists, where

1524 the goods are sold in different markets and the conditions affecting those markets set different price levels for them, the sale to different customers at those different prices would not constitute a discrimination within the meaning of this bill."

Where two purchasers from a seller are competing with each other, that competition creates a relationship that entitles them to comparable treatment as to price, absent which there would be a discrimination in price within the meaning of section 2(a). On the other hand, in a case like this, where the purchasers from a seller are located in different areas of the

country and are not in competition with each other, there is generally no relationship which entitles them to be charged the same prices. This is particularly true when different prices in different markets are characteristic of all sellers in the industry. Thus, a retailer in Boston or San Francisco, in paying a higher price for beer than a retailer in St. Louis or Chicago, is in no way prejudiced or treated unfairly.

Moreover, if it were assumed that AB's price cuts in the St. Louis area were injurious to its customers in some other area and that the latter customers were given by section 2(a) a right to relief, we find no language in that section transferring that right to AB's competitors in the St. Louis area. It is a complete non sequitur to say that, because AB's acts gave its customers in another area a right to relief, its St. Louis market competitors became entitled to relief under section 2(a). Certainly congress has not said so in that section and we have no right to extend the section to benefit a group which lies beyond the purpose and scope of the language used.

Lacking a showing of discrimination within the St. Louis area, there is no relationship existing between AB's competitors in that area and either its competitors or its customers in other areas which justifies the Commission's conclusion that a discrimination has been shown in the St. Louis area which brings section 2(a) into play. In reality, the Commission is not complaining of a price discrimination between purchasers in different markets, but rather of a lowering in price in St. Louis, whether or not discriminatory. But section 2(a) says nothing about lowering prices in any market. Such a practice congress did meet head-on when, in 1936, it enacted section 3 of the Robinson-Patman Act, 15 U.S.C.A. 13a, which does not amend the Clayton Act, but stands on its own footing and carries its own sanctions. *Nashville Milk Co. v. Carnation Company*, 355 U.S. 373, affirming our decision, 238 F. 2d 86. As the Supreme Court said in that case at 377, in regard to section 3:

"* * * It prohibits three kinds of trade practices, (a) general price discriminations, (b) geographical price discriminations, and (c) selling 'at unreasonably low prices for the purpose of destroying competition or eliminating a competitor.' * * *

Although there is a partial overlap between the price discrimination clauses of section 3 of the Robinson-Patman Act and

those of section 2 of the Clayton Act, as amended by the first section of the Robinson-Patman Act, as stated by the Supreme Court in the Nashville Milk Co., *supra*, at 378, we do not find in section 2(a) the price discrimination proscription sought by the Commission in this case. On the other hand, section 3 of the Robinson-Patman Act, in the prohibitions [(b) and (c) pointed out by the Supreme Court, *supra*] has imposed severe sanctions on geographical price discriminations and selling at unreasonably low prices for the purpose of destroying competition or eliminating a competitor.

The fact that the Commission has not been given power by 15 U.S.C.A. 21 to enforce section 3, which is known as 15 U.S.C.A. 13a, does not justify an attempt by it to enlarge the scope of section 2(a) to include a matter lying expressly within the scope of section 3.

Neither by a charge in the complaint nor by the evidence has the Commission shown a violation by AB of section 2(a) of the Act. For the foregoing reasons, therefore, the cease and desist order issued by the Commission on September 10, 1957, is set aside.

ORDER SET ASIDE.

1527 In United States Court of Appeals for the
Seventh Circuit

No. 12284

ANHEUSER-BUSCH, INC., A MISSOURI CORPORATION, PETITIONER
v.

FEDERAL TRADE COMMISSION, RESPONDENT

PETITION TO REVIEW AND SET ASIDE ORDER AND DECISION OF THE
FEDERAL TRADE COMMISSION

Judgment

April 13, 1959

Before Hon. F. RYAN DUFFY, Chief Judge; Hon. ELMER J.
SCHNACKENBERG, Circuit Judge; Hon. WIN G. KNOCH,
Circuit Judge

This cause came on to be heard on the petition to review
and set aside an order and decision of the Federal Trade Com-

mission, and the record from the Federal Trade Commission, and was argued by counsel.

On consideration whereof, it is ordered and adjudged by this Court that the cease and desist order issued by the Federal Trade Commission on September 10, 1957, be set aside, in accordance with the opinion of this Court filed this day.

1528 In United States Court of Appeals for the
Seventh Circuit

No. 12284

ANHEUSER-BUSCH, INC., A MISSOURI CORPORATION, PETITIONER
v.

FEDERAL TRADE COMMISSION, RESPONDENT

PETITION TO REVIEW AND SET ASIDE ORDER AND DECISION OF THE
FEDERAL TRADE COMMISSION

Order amending opinion

April 21, 1959

Before Hon. F. RYAN DUFFY, Chief Judge; Hon. ELMER J.
SCHNACKENBERG, Circuit Judge; Hon. WIN G. KNOCH,
Circuit Judge

On the court's motion, it is ordered that the opinion heretofore filed herein in this court, is amended by striking the following sentence where it appears on page 6 of the slip opinion:

"Where two purchasers from a seller are competing with each other, that competition creates a relationship that entitles them to comparable treatment as to price, absent which there would be a discrimination in price within the meaning of section 2(a)."

and by substituting in lieu thereof the following sentence:

"Where two purchasers from a seller are competing with each other, that competition creates a relationship that entitles them to comparable treatment as to price, without which treatment there would be a discrimination in price within the meaning of section 2(a)."

1529 [Clerk's certificate to foregoing transcript omitted in printing.]

1530 Supreme Court of the United States

Order extending time to file petition for writ of certiorari

July 9, 1959

Upon consideration of the application of counsel for petitioner(s),

It is ordered that the time for filing petition for writ of certiorari in the above-entitled cause be, and the same is hereby, extended to and including Sept. 10th, 1959.

TOM C. CLARK,
*Associate Justice of the Supreme
Court of the United States.*

Dated this 9th day of July 1959.

1531 Supreme Court of the United States

No. 389, October Term, 1959

FEDERAL TRADE COMMISSION, PETITIONER

v.

ANHEUSER-BUSCH, INC.

Order allowing certiorari

November 9, 1959

The petition herein for a writ of certiorari to the United States Court of Appeals for the Seventh Circuit is granted.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

LE COPY

Office-Supreme Court, U.S.

FILED

SEP 9 1959

JAMES R. BROWNING, Clerk

No. **389**

In the Supreme Court of the United States

OCTOBER TERM, 1959

FEDERAL TRADE COMMISSION, PETITIONER

v.

ANHEUSER-BUSCH, INC.

**PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES
COURT OF APPEALS FOR THE SEVENTH CIRCUIT**

J. LEE HANKIN,

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ROBERT A. NICKS,

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Federal Trade Commission, Washington 25, D.C.

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CITATIONS

Cases:

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<i>Moore v. Mead's Fine Bread Co.</i> , 348 U.S. 115	11
<i>E. B. Muller & Co. v. Federal Trade Commission</i> , 142 F. 2d 511	10, 11
<i>Nashville Milk Co. v. Carnation Co.</i> , 355 U.S. 373	12
<i>Porto Rican American Tobacco Co. v. American To- bacco Co.</i> , 30 F. 2d 234, certiorari denied, 279 U.S. 858	10
<i>Safeway Stores v. Vance</i> , 355 U.S. 389	12
<i>Vance v. Safeway Stores</i> , 239 F. 2d 144	12

Statutes:

Clayton Act, Sec. 2(a), 38 Stat. 730, as amended, 15 U.S.C. 13(a)	2, 3, 6, 7, 12
Robinson-Patman Act, Sec. 3, 15 U.S.C. 13a	6, 12

Miscellaneous:

80 Cong. Rec. 9417	10
H. Rep. 627, 63d Cong., 2d Sess., pp. 1, 8-9	8
H. Rep. 2287, 74th Cong., 2d Sess., p. 8	9
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In the Supreme Court of the United States

OCTOBER TERM, 1959

No. —

FEDERAL TRADE COMMISSION, PETITIONER

v.

ANHEUSER-BUSCH, INC.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES
COURT OF APPEALS FOR THE SEVENTH CIRCUIT

The Solicitor General, on behalf of the Federal Trade Commission, prays that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the Seventh Circuit, entered in the above cause on April 13, 1959, which set aside the Commission's cease and desist order.

OPINION BELOW

The opinion of the Court of Appeals (Appendix A, *infra*, pp. 14-22) is reported at 265 F. 2d 677.

JURISDICTION

The judgment of the Court of Appeals was entered on April 13, 1959 (Appendix B, *infra*, p. 23). The time for filing a petition for a writ of certiorari was extended by order of Mr. Justice Clark, dated July 9, 1959, to September 10, 1959. The jurisdiction of this Court is invoked under 28 U.S.C. 1254 (1).

QUESTION PRESENTED

Whether price-cutting in a particular locality by a nationwide seller who maintains higher prices in other localities, with consequent injury to competition in the locality in which the lower price is charged, constitutes a discrimination in price forbidden by Section 2(a) of the amended Clayton Act.

STATUTE INVOLVED

Section 2(a) of the Clayton Act, 38 Stat. 730, as amended by the Robinson-Patman Act, 49 Stat. 1526, 15 U.S.C. 13(a), provides in pertinent part:

That it shall be unlawful for any person engaged in commerce, in the course of such commerce, either directly or indirectly, to discriminate in price between different purchasers of commodities of like grade and quality, where either or any of the purchases involved in such discrimination are in commerce, where such commodities are sold for use, consumption, or resale within the United States or any Territory thereof or the District of Columbia or any insular possession or other place under the jurisdiction of the United States, and where the effect of such discrimination may be substantially to lessen competition or tend to create a monopoly in any line of commerce, or to injure, destroy, or prevent competition with any person who either grants or knowingly receives the benefit of such discrimination, or with customers of either of them: * * *.

STATEMENT

The Federal Trade Commission issued a complaint in 1955 charging respondent, which sells its beer on

a nationwide basis and was the country's leading seller in 1953 and 1954, with discrimination in price in violation of § 2(a) of the Clayton Act, by cutting the price of its beer in the St. Louis, Missouri, area while maintaining substantially higher prices in all other areas (App. 3-8).¹ The complaint charged that the large differential between the prices charged respondent's St. Louis customers and the prices charged its customers elsewhere had diverted, and was likely to divert, substantial business to respondent from its competitors in the St. Louis area; and that the effect of this price discrimination may be substantially to lessen competition or tend to create a monopoly in the sale of beer to St. Louis retailers, or to injure, destroy, or prevent competition with respondent (*id.* 8).

After the taking of evidence before a hearing examiner, he filed an "Initial Decision" which set forth his findings of fact, conclusions of law, and proposed cease and desist order (*id.* 16-46). The following facts found by the examiner are pertinent here:

Respondent is one of a small number of so-called "national" brewers whose beer is sold in significant volume in every state, and in nearly every market respondent's beer is sold at a premium price over "regional" beers (those sold in significant volume in a multistate area but not nationally) and "local" beers (those sold within a small mileage radius from the brewery) (*id.* 18-20).

Three regional beers compete with respondent in St. Louis (*id.* 25). In 1953 one of these competitors had

¹"App." refers to the Single Appendix In Lieu Of Separate Appendices filed in the Court of Appeals.

38.9% of this market, one had 29.4% and the third had 14.4%, while respondent ranked fourth with 12.5% (*id.* 26).

On October 1, 1953, respondent and the four national Milwaukee brewers increased their prices generally, the amount of the increase varying with the locality, after having entered into wage-increase contracts (*id.* 21-22).² Many local and regional brewers thereupon also raised their prices but respondent's three St. Louis competitors did not, and continued to sell to retailers in the St. Louis market at the price of \$2.35 per case (*id.* 22). Respondent's price in that market was \$2.93 per case, but on January 4, 1954, it cut its price to \$2.68 and on June 21, 1954, cut its price to \$2.35, which price remained in force until March 1, 1955, when respondent raised its price to \$2.80 per case (*id.* 23, 27). Shortly after this increase, the three competitors raised their per-case price in St. Louis from \$2.35 to \$2.50 (*id.* 27).

Respondent made the foregoing price reductions for two reasons: "to get business away from its competitors, and to punish them for refusing to increase prices when [respondent] did so in the fall of 1953" (*id.* 40). During the period of the second price cut, respondent, which had ranked fourth in the St. Louis market in 1953, "jumped into first place by a wide margin" (*id.* 28). During this period its percentage of total sales, on a monthly basis, ranged from a low of

² Respondent raised its prices in all markets except those in Missouri and Wisconsin (*id.* 929).

33.2% to a high of 39.3% (*id.* 28-29), as compared with its 12.5% share of this market in 1953 (*id.* 26).³

Respondent's price reductions discriminated against its customers in other states, diverted substantial business from respondent's competitors in the St. Louis market, substantially lessened competition in this market, and tended to create a monopoly therein (*id.* 36-37). Respondent's price reductions were not made in good faith to meet the equally low prices of competitors (*id.* 44).

On respondent's appeal from the examiner's decision, the Commission adopted his findings of fact and conclusions of law, and entered an order which directs respondent to cease and desist from discriminating in price between different purchasers of its beer "by a price reduction in any market where respondent is in competition with any other seller, unless it proportionally reduces its prices everywhere for the same quantity of beer" (*id.* 47-48). The Commission also filed an opinion setting forth the grounds for its adoption of the contested aspects of the examiner's decision (*id.* 49-61).⁴

On petition for review, the Court of Appeals noted that respondent sold at the same price, at any given

³ During this period one of its competitors, Griesedieck Western, which in 1953 had 38.9% of the St. Louis market, ranged from a monthly low of 21.3% of total sales to a high of 27.0% (*id.* 26, 30). During the same period another competitor, Griesedieck Bros., which had 14.4% of St. Louis sales in 1953, had during one month only 4.8% of total sales, and its maximum monthly percentage was 8.8% (*ibid.*).

⁴ Two of the five Commissioners did not participate in the decision (*id.* 48, 61).

time, to all its St. Louis customers and that its customers in other areas, who were concurrently charged higher prices, were not in competition with its St. Louis customers. The court held that in these circumstances the price cuts in St. Louis, even if "directed at" respondent's competitors in that market, did not constitute a price discrimination within the meaning of § 2(a) of the Clayton Act. The court said that the statute does not prohibit every difference in price, but applies only to price differentials where there is "some relationship between the different purchasers which entitles them to comparable treatment". In the court's view, the Commission in reality was complaining of "a lowering in price in St. Louis, whether or not discriminatory", and this practice Congress had dealt with, not in § 2(a) of the Clayton Act, but in § 3 of the Robinson-Patman Act, 15 U.S.C. 13a, a criminal prohibition which the Commission was given no power to enforce. See Appendix A, *infra*, pp. 19-22. The court's holding made it unnecessary for it to determine whether the evidence supported the Commission's findings as to the effect on competition of the St. Louis price cuts, or whether the evidence established respondent's affirmative defense, pursuant to § 2(b) of the Clayton Act, that the price cuts were made in good faith to meet the equally low prices of competitors (*id.*, *infra*, p. 18).

REASONS FOR GRANTING THE WRIT

This case presents the issue of whether a nationwide seller who cuts prices in one market, while maintaining higher prices in all other markets, vio

lates § 2(a) of the Clayton Act only if his customers outside the area of the price cut are in competition with his customers within that area and are thereby injured by the lower prices granted the latter. The court below, by deeming the section limited to price discriminations which may adversely affect competition among the seller's customers, excluded from the statutory prohibition territorial price discrimination injurious to competition with the seller on the part of those engaged in vending the same product or commodity to the same class of purchasers. Thus the statute, as interpreted by the court below, permits a large concern to make price raids in particular localities, thereby imperiling the trade of its relatively small local rivals. This interpretation largely nullifies the Clayton Act in its application to territorial price discrimination. It is, we submit, contrary to the language of the statute, its legislative history, and the uniform construction of it by courts of appeals and this Court.

(1) Section 2(a) makes it unlawful to discriminate in price between different purchasers "where the effect of such discrimination may be substantially to lessen competition or tend to create a monopoly in any line of commerce, or to injure, destroy, or prevent competition with any person who either grants or knowingly receives the benefit of such discrimination, or with customers or either of them." The section thus bans discrimination which may adversely affect *either* competition with the seller *or* competition with his customers. But the court below, in

violation of the clear meaning of the section, confined its prohibition to discriminations which adversely affect competition between customers of the seller.

(2) Legislative history confirms the view that the section prohibits territorial price discrimination whereby a seller's competitors in a particular market or locality may be weakened or destroyed. One of the major purposes of Congress when § 2 was originally enacted was to prohibit such conduct. The House Judiciary Committee report on the bill which became the Clayton Act stated (H. Rep. 627, 63d Cong., 2d Sess., pp. 8-9):⁵

It [Section 2] is expressly designed with the view of correcting and forbidding a common and widespread unfair trade practice whereby certain great corporations * * * have heretofore endeavored to destroy competition and render unprofitable the business of competitors by selling their goods, wares, and merchandise at a less price in the particular communities

⁵ In the bill as reported by the House Committee, § 2 made it unlawful to "discriminate in price between different purchasers of commodities *in the same or different sections or communities*" (H. Rep. 627, *supra*, p. 1). The italicized phrase was later dropped, but without any purpose to change the section's meaning. The Senate Judiciary Committee in reporting, with amendments, the bill passed by the House, explained omission of the phrase as follows (S. Rep. 698, 63d Cong., 2d Sess., p. 43):

"The words 'in the same or different sections or communities,' in the first part of this section, are stricken out because they are either surplusage, when applied to 'commerce,' as defined in the bill; or if they are used in a more restricted sense, in a sense which would apply them to local transactions merely, they would attempt to regulate intrastate commerce and be therefore void."

where their rivals are engaged in business than at other places throughout the country. * * * Such a system or practice is so manifestly unfair and unjust, not only to competitors who are directly injured thereby but to the general public, that your committee is strongly of the opinion that the present antitrust laws ought to be supplemented by making this particular form of discrimination a specific offense under the law when practiced by those engaged in commerce.

The underlying purpose did not change when § 2 was amended by the Robinson-Patman Act. Congress intended the amendments to the section to expand its prohibitions, without impairing existing prohibitions. See *infra*, p. 12; H. Rep. 2287, 74th Cong., 2d Sess., p. 8; S. Rep. 1502, 74th Cong., 2d Sess., p. 4.

The court below regarded as determinative certain language used by Representative Utterback, the House manager of the conference bill, namely, that the word discrimination implies "some relationship" between the parties to the discrimination which "entitles them to equal treatment," as when they compete in resale of the goods concerned; but "where no such relationship exists, where the goods are sold in different markets and the conditions affecting those markets set different price levels for them, the sale to different customers at those different prices would not constitute a discrimination within the meaning of this bill." See Appendix A, *infra*, pp. 19-20.

This exposition dealt with, and obviously related solely to, discriminations productive of injury to com-

petition between the seller's favored and disfavored customers. Shortly after the statements upon which the court below relied, Congressman Utterback explicitly declared that § 2 as amended would prohibit territorial price discriminations injurious to competition with the seller. He explained that previously § 2 required "a showing of effect upon competitive conditions generally in the line of commerce and market territory concerned, as distinguished from the effect of the discrimination upon immediate competition with the grantor or grantee" (80 Cong. Rec. 9417). He then said (*ibid.*):

The difference may be illustrated where a non-resident concern opens a new branch beside a local concern, and with the use of discriminatory prices destroys and replaces the local concern as the competitor in the local field. Competition in the local field generally has not been lessened, since one competitor has been replaced by another; but competition with the grantor of the discrimination has been destroyed. The present bill is, therefore, less rigorous in its provisions as to the effect required to be shown in order to bring a given discrimination within its prohibitions.

(3) Three other circuits have held that § 2 prohibits a lowering of the seller's price in a particular locality where the effect may be to injure or destroy his local competitors. *Porto Rican American Tobacco Co. v. American Tobacco Co.*, 30 F. 2d 234 (C.A. 2), certiorari denied, 279 U.S. 858;⁶ *E. B. Muller & Co. v.*

⁶This case arose under § 2 prior to its amendment by the Robinson-Patman Act.

FTC, 142 F. 2d 511 (C.A. 6); *Maryland Baking Co. v. FTC*, 243 F. 2d 716 (C.A. 4). In *Porto Rican* and *Maryland Baking* there was no showing that the seller's customers in the price-cutting area competed with its customers elsewhere. In *Muller* the court said that the record showed discrimination between "competing customers" but the effect on competition of the territorial price discrimination was discussed solely in terms of its effect on a competitor of the seller. 142 F. 2d at 518.

In *Moore v. Mead's Fine Bread Co.*, 348 U.S. 115, this Court sustained a judgment for the plaintiff in a treble damage action based on both § 2(a) of the Clayton Act and § 3 of the Robinson-Patman Act where the facts showed that a bakery engaged in selling bread in various places in New Mexico and Texas cut its prices in half in one town (Clovis, N. Mex.) while making no cut in prices elsewhere, with the result that a rival Clovis bakery was forced out of business. This Court's opinion made no reference to existence of competition between the seller's Clovis customers and its customers in other areas. The Court nevertheless said that it regarded it as clear that both the Clayton Act and Robinson-Patman Act outlawed "the price cutting employed by respondent" (348 U.S. at 120).⁷

(4) In the instant case, the court below appears to have been of the opinion that the Commission's order could not stand because the lowering of prices in a

⁷ We recognize that the issue primarily raised and decided was whether the statutory provisions found to have been violated apply to wholly intrastate sales of a company engaged in an interstate business.

particular market was a practice which Congress "did meet head-on" in § 3 of the Robinson-Patman Act, Appendix A, *infra*, p. 21. But it is clear from *Nashville Milk Co. v. Carnation Co.*, 355 U.S. 373, that the fact that there is "a partial overlap between the price-discrimination clauses" of § 3 of the Robinson-Patman Act and those of § 2 of the Clayton Act, as amended, does not delimit the latter section. 355 U.S. at 378. This Court referred to "*the independent force of the Clayton Act*," in its application to price discriminations "common to" both § 2 of the Clayton Act and § 3 of the Robinson-Patman Act. *Id.* at 380.* It also quoted part of the conference report on the bill which became the Robinson-Patman Act, including statements that the prohibition of § 3 of that Act "are in no way inconsistent with the provisions of the Clayton Act amendment," and that "Section 3 [of the Robinson-Patman Act] authorizes nothing which that amendment prohibits, and takes nothing from it." *Id.* at 381.

(5) We urge that this Court grant review because the decision below is inconsistent with applicable decisions of courts of appeals of other circuits and of

* The point is given added emphasis by this Court's disposition of the companion case of *Safeway Stores v. Vance*, 355 U.S. 389. The complaint alleged "sales 'at unreasonably low prices'" and "territorial discrimination in prices" (see *Vance v. Safeway Stores*, 239 F. 2d 144, 145 (C.A. 10)) in violation of § 3 of the Robinson-Patman Act and sought treble damages for the alleged competitive injury. Although this Court dismissed the charge of sales at unreasonably low prices (on the ground that the only statutory remedy is a criminal proceeding), it remanded the case for trial on the charge of unlawful price discrimination.

this Court, and because the interpretation the court below placed on § 2(a) presents a question of statutory construction of general public importance. Although certain issues raised in the court below but not there determined, including the possible undue breadth of the Commission's order,⁹ may be close and difficult, we submit that this is not a ground for denial of certiorari.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted.

J. LEE RANKIN,
Solicitor General.

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Federal Trade Commission.

SEPTEMBER 1959.

⁹The question whether a violation was charged and proved is, of course, discrete from the question whether the present order has infirmities. If, for example, it should ultimately be concluded that the order must be refashioned, the proper course would be a remand to the Commission, not nullification of the entire proceeding.

APPENDIX A

In the United States Court of Appeals for the
Seventh Circuit

SEPTEMBER TERM, 1958. APRIL SESSION, 1959

No. 12284

ANHEUSER-BUSCH, INC., A MISSOURI CORPORATION
PETITIONER

v.

FEDERAL TRADE COMMISSION, RESPONDENT

PETITION TO REVIEW AND SET ASIDE ORDER AND DECISION
OF THE FEDERAL TRADE COMMISSION

April 13, 1959

Before DUFFY, *Chief Judge*, and SCHNACKENBERG and
KNOCH, *Circuit Judges*

SCHNACKENBERG, *Circuit Judge*. By its petition, Anheuser-Busch, Inc., a Missouri corporation, herein referred to as AB, asks us to review and set aside a cease and desist order issued on September 10, 1957 by the Federal Trade Commission, based upon a complaint charging AB with a violation of section 2(a) of the Clayton Act as amended by the Robinson-Patman Act.¹ 15 U.S.C.A. § 13(a).

In its brief, the Commission states that AB was charged in the complaint with territorial price dis-

¹ "It shall be unlawful for any person engaged in commerce, in the course of such commerce, either directly or indirectly, to discriminate in price between different purchasers of com-

crimination. The complaint alleged two price reductions on its beer products made by AB to retailers in the St. Louis, Missouri area during 1954, resulting in

modities of like grade and quality, where either or any of the purchases involved in such discrimination are in commerce, where such commodities are sold for use, consumption, or resale within the United States or any Territory thereof or the District of Columbia or any insular possession or other place under the jurisdiction of the United States, and where the effect of such discrimination may be substantially to lessen competition or tend to create a monopoly in any line of commerce, or to injure, destroy, or prevent competition with any person who either grants or knowingly receives the benefit of such discrimination, or with customers of either of them: *Provided*, That nothing contained in sections 12, 13, 14-21 and 22-27 of this title shall prevent differentials which make only due allowance for differences in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which such commodities are to such purchasers sold or delivered: *Provided, however*, That the Federal Trade Commission may, after due investigation and hearing to all interested parties, fix and establish quantity limits, and revise the same as it finds necessary, as to particular commodities or classes of commodities, where it finds that available purchasers in greater quantities are so few as to render differentials on account thereof unjustly discriminatory or promotive of monopoly in any line of commerce; and the foregoing shall then not be construed to permit differentials based on differences in quantities greater than those so fixed and established: *And provided further*, That nothing contained in sections 12, 13, 14-21, and 22-27 of this title shall prevent persons engaged in selling goods, wares, or merchandise in commerce from selecting their own customers in bona fide transactions and not in restraint of trade: *And provided further*, That nothing contained in sections 12, 13, 14-21, and 22-27 of this title shall prevent price changes from time to time where in response to changing conditions affecting the market for or the marketability of the goods concerned, such as but not limited to actual or imminent deterioration of perishable goods, obsolescence of seasonal goods, distress sales under court process, or sales in good faith in discontinuance of business in the goods concerned."

substantially lower prices to its customers there than to its customers located elsewhere in the United States. AB's answer consisted in part of a denial and contained an affirmative defense that the reductions were made in good faith to meet the equally low prices of competitors. See section 2(b) of the Clayton Act, amended as aforesaid, 15 U.S.C.A. § 13(b).²

Following hearings before an examiner, he entered an initial decision, in which he made findings of fact and concluded that AB had violated section 2(a) as charged, and entered a provisional order. The Commission issued its final order now before us, adopting the findings and conclusions of the examiner,³ and filed its opinion.

The evidence is not in substantial conflict. As found by the examiner, the controlling facts which we deem material here are, in summary, as follows:

At all times relevant in this case, AB, a manufacturer of beers, including Budweiser, sold its beers on a nation-wide basis, in competition with other brewers in commerce. AB and four other named breweries selling on a nation-wide basis, sold and shipped into

² "Upon proof being made, at any hearing on a complaint under this section, that there has been discrimination in price or services or facilities furnished, the burden of rebutting the prima-facie case thus made by showing justification shall be upon the person charged with a violation of this section, and unless justification shall be affirmatively shown, the Commission is authorized to issue an order terminating the discrimination: *Provided, however,* That nothing contained in sections 12, 13, 14-21, and 22-27 of this title shall prevent a seller rebutting the prima-facie case thus made by showing that his lower price or the furnishing of services or facilities to any purchaser or purchasers was made in good faith to meet an equally low price of a competitor, or the services or facilities furnished by a competitor."

³ It modified in some respects the provisional order to cease and desist.

all states. They were known as national brewers and their products as national beers. There were throughout the country a number of beers having merely local or regional distribution.

There were many separate marketing areas for beer in the country. Each market had a distinct pattern of prices and the prices charged for the same beers varied among the different marketing areas. While it appears that there was no uniform or constant differential, in the great majority of markets Budweiser and the other national beers were sold at some price higher than the price charged for beers having merely regional or local distribution.

In 1953, a strike closed the plants of the other four national brewers and AB became the nation's leading producer. After the strike, the national brewers generally increased prices, though in varying amounts depending on locality. However, neither AB nor its three local or regional competitors in the St. Louis area⁴ increased their prices on sales in the St. Louis market.

On January 4, 1954 and June 21, 1954, AB reduced its prices on Budweiser beer in the St. Louis market to practically equal those charged for local and regional beers there. These reductions AB did not make elsewhere.

These price cuts, the Commission held, constituted a discrimination in price "as between purchasers differently located". The examiner found, and the Commission concurred, that these price "discriminations" had the effect of diverting substantial business to AB from its competitors in the St. Louis market; the effect of substantially lessening competition in the line of commerce in which AB and its local competitors "are engaged"; and the further effect of tending

⁴Falstaff, Griesedieck Western and Griesedieck Brothers.

to create a monopoly and having the potentialities to continue to do so.

We find it unnecessary to determine whether the evidence proved the effects to which the Commission alluded, or whether the evidence established AB's affirmative defense of good faith.

The Commission makes it clear that no complaint is made by it as to AB's regular practice of selling its beer at different prices in the different markets of the country. It says:

We are concerned only with the lowering of the price in one area while maintaining prices in all other areas albeit the maintained prices might be different prices.

* * * The proceeding was designed to stop a predatory pricing practice, a practice by which a national seller can disrupt any given market to the injury of its local competitors in that market.

* * * The Commission found the price reductions confined to the St. Louis area to be price discriminations violative of Section 2(a) of the amended Clayton Act. Petitioner maintains there was no violation of law.

We are confronted here with the basic question of whether AB's price cuts in the St. Louis area, which, as contended by the Commission, disrupted that market to the injury of its local competitors in *that* market, were price discriminations within the proscription of section 2(a). Even if we assume that these cuts were directed at AB's local competitors, they were not *discriminatory*. AB did not thereby *discriminate* among its local competitors in the St. Louis area. By its cuts AB employed the same means of competition against all of them. Moreover, it did not discriminate among those who *bought* its beer in the St. Louis area; all could buy at the same prices. We have

here, as far as the St. Louis area is concerned, a non-discriminatory pricing activity, as to which the affirmative defense of good faith becomes relevant only if the price cuts constituted a violation of section 2(a).

Actually the only discrimination claimed is said to result from AB's St. Louis price cuts when it failed to make similar cuts in other areas. But it is significant that the Commission is not seeking to protect AB's competitors in the other areas. In fact the Commission does not even say that they have been injured. In effect, the situation is that, while the cuts were discriminatory against AB's competitors only in other areas (about which there is no complaint by the Commission) and the effects on AB's local competitors in the St. Louis area were not discriminatory as among them, the Commission argues that section 2(a) can be used "to stop a predatory pricing practice" in that area. However, it is not every price difference that amounts to a discrimination in price under the Act. Price discrimination means more than a mere difference in price. There must be some relationship between the different purchasers which entitles them to comparable treatment. Inasmuch as the Commission admits that the prices charged in the St. Louis area, on the one hand, and in other areas, on the other hand, were different and that this difference is not the subject of its complaint, it is clear that the mere fact of difference in price resulting from difference of markets, is not price discrimination under the Act. The Commission complains only about the lowering of the price in one area while the prices in all other areas are maintained, albeit the maintained prices might be different from those charged in the area where the lowering took place. But Representative Utterback, a manager of

the conference bill which became section 2(a) (80 Cong. Rec. 9416), stated:

In its meaning as simple English a discrimination is more than a mere difference. Underlying the meaning of the word is the idea that some relationship exists between the parties to the discrimination which entitles them to equal treatment, whereby the difference granted to one casts some burden or disadvantage upon the other. If the two are competing in the resale of the goods concerned, that relationship exists. Where, also, the price to one is so low as to involve a sacrifice of some part of the seller's necessary costs and profit as applied to that business, it leaves that deficit inevitably to be made up in higher prices to his other customers; and there, too, a relationship may exist upon which to base the charge of discrimination. But where no such relationship exists, where the goods are sold in different markets and the conditions affecting those markets set different price levels for them, the sale to different customers at those different prices would not constitute a discrimination within the meaning of this bill.

Where two purchasers from a seller are competing with each other, that competition creates a relationship that entitles them to comparable treatment as to price, without which treatment there would be a discrimination in price within the meaning of section 2(a). On the other hand, in a case like this, where the purchasers from a seller are located in different areas of the country and are not in competition with each other, there is generally no relationship which entitles them to be charged the same prices. This is particularly true when different prices in different markets are characteristic of all sellers in the industry. Thus, a retailer in Boston or San Francisco, in paying

a higher price for beer than a retailer in St. Louis or Chicago, is in no way prejudiced or treated unfairly.

Moreover, if it were assumed that AB's price cuts in the St. Louis area were injurious to its customers in some other area and that the latter customers were given by section 2(a) a right to relief, we find no language in that section transferring that right to AB's *competitors* in the St. Louis area. It is a complete *non sequitur* to say that, because AB's acts gave its *customers* in *another* area a right to relief, its *St. Louis market competitors* became entitled to relief under section 2(a). Certainly congress has not said so in that section and we have no right to extend the section to benefit a group which lies beyond the purpose and scope of the language used.

Lacking a showing of discrimination within the St. Louis area, there is no relationship existing between AB's competitors in that area and either its competitors or its customers in other areas which justifies the Commission's conclusion that a discrimination has been shown in the St. Louis area which brings section 2(a) into play. In reality, the Commission is not complaining of a price discrimination between purchasers in different markets, but rather of a lowering in price in St. Louis, whether or not discriminatory. But section 2(a) says nothing about lowering prices in any market. Such a practice congress did meet head-on when, in 1936, it enacted section 3 of the Robinson-Patman Act, 15 U.S.C.A. 13 a, which does not amend the Clayton Act, but stands on its own footing and carries its own sanctions. *Nashville Milk Co. v. Carnation Company*, 355 U.S. 373, affirming our decision, 238 F. 2d 86. As the Supreme Court said in that case at 377, in regard to section 3:

* * * It prohibits three kinds of trade practices, (a) general price discriminations, (b)

geographical price discriminations, and (c) selling "at unreasonably low prices for the purpose of destroying competition or eliminating a competitor." * * *

Although there is a partial overlap between the price discrimination clauses of section 3 of the Robinson-Patman Act and those of section 2 of the Clayton Act, as amended by the first section of the Robinson-Patman Act, as stated by the Supreme Court in the *Nashville Milk Co., supra*, at 378, we do not find in section 2(a) the price discrimination proscription sought by the Commission in this case. On the other hand, section 3 of the Robinson-Patman Act, in the prohibitions [(b) and (c) pointed out by the Supreme Court, *supra*] has imposed severe sanctions on geographical price discriminations and selling at unreasonably low prices for the purpose of destroying competition or eliminating a competitor.

The fact that the Commission has not been given power by 15 U.S.C.A. 21 to enforce section 3, which is known as 15 U.S.C.A. 13a, does not justify an attempt by it to enlarge the scope of section 2(a) to include a matter lying expressly within the scope of section 3.

Neither by a charge in the complaint nor by the evidence has the Commission shown a violation by AB of section 2(a) of the Act. For the foregoing reasons, therefore, the cease and desist order issued by the Commission on September 10, 1957, is set aside.

ORDER SET ASIDE.

A true Copy:

Teste:

*Clerk of the United States Court of
 Appeals for the Seventh Circuit.*

APPENDIX B

United States Court of Appeals for the
Seventh Circuit

CHICAGO 10, ILLINOIS
Monday, April 13, 1959

No. 12284

ANHEUSER-BUSCH, INC., A MISSOURI CORPORATION,
PETITIONER

v.

FEDERAL TRADE COMMISSION, RESPONDENT

PETITION TO REVIEW AND SET ASIDE ORDER AND DECISION
OF THE FEDERAL TRADE COMMISSION

Before Hon. F. RYAN DUFFY, *Chief Judge*; Hon.
ELMER J. SCHNACKENBERG, *Circuit Judge*; Hon.
WIN G. KNOCH, *Circuit Judge*

This cause came on to be heard on the petition to review and set aside an order and decision of the Federal Trade Commission, and the record from the Federal Trade Commission, and was argued by counsel.

On consideration whereof, it is ordered and adjudged by this Court that the cease and desist order issued by the Federal Trade Commission on September 10, 1957, be set aside, in accordance with the opinion of this Court filed this day.

A true copy:

Teste:

(Signed by) KENNETH J. CARRICK,
*Clerk of the United States Court of
Appeals for the Seventh Circuit.*

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JAMES R. BROWNING, Clerk

No. 389

In the Supreme Court of the United States

OCTOBER TERM, 1959

FEDERAL TRADE COMMISSION, PETITIONER

v.

ANHEUSER-BUSCH, Inc.

**ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED
STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT**

SUPPLEMENTAL MEMORANDUM FOR PETITIONER

J. LEE HANKIN,

Solicitor General,

Department of Justice, Washington 25, D.C.

In the Supreme Court of the United States

OCTOBER TERM, 1959

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ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED
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SUPPLEMENTAL MEMORANDUM FOR PETITIONER

Since filing our petition in the above-captioned case, we have learned of the recent decision of the Court of Appeals for the Tenth Circuit in *Atlas Building Products Company v. Diamond Block & Gravel Company*, dated August 17, 1959. That case, like this one, arises under Section 2(a) of the Clayton Act, as amended by the Robinson-Patman Act, and involves a charge that a multi-state seller has engaged in territorial price discrimination. The case differs in the respect—immaterial for present purposes—that it is a suit for damages by a competing seller, rather than a Federal Trade Commission proceeding looking to issuance of a cease-and-desist order. The issue raised by the Tenth Circuit case, however,

(1)

is in substance the same as the issue stated in the Government's petition: Whether price-cutting in a particular locality by a nationwide seller who maintains higher prices in other localities, with consequent injury to competition in the locality in which the lower price is charged, constitutes a discrimination in price forbidden by Section 2(a) of the amended Clayton Act.

The Tenth Circuit has decided this issue in a manner which is directly contrary to the holding in the instant case. The conflict, indeed, is an express one. Thus, the Tenth Circuit's opinion declares in pertinent part (Appendix, pp. 9-10):

The same legal issue was before the Seventh Circuit in *Anheuser-Busch, Inc. v. Federal Trade Commission*, 265 F. 2d 677, where the court was presented with the basic question whether uniform local price cuts by an interstate manufacturer which disrupted the market to the injury of local competitors, were price discriminations within the proscription of Section 2(a). The court held that even though directed at local competitors, the price cuts were not discriminatory, apparently because they did not discriminate among local competitors. This conclusion is apparently based upon the theory contended for here that the statutory words "different purchasers" means competing purchasers. We respectfully reject any such restriction upon Section 2(a). For, we are convinced that geographic price discriminations employed for predatory ends are cognizable under either Section 2(a) or Section 3, and it was therefore not error for the court to tell the jury that they might consider differences in

price in El Paso County, Texas, and Dona Ana County, New Mexico, in determining whether the defendant was guilty of actionable price discrimination.

For the convenience of the Court, the full opinion is set forth in the Appendix which follows.

Respectfully submitted.

J. LEE RANKIN,
Solicitor General.

SEPTEMBER 1959.

APPENDIX

United States Court of Appeals Tenth Circuit

No. 5990—May Term, 1959

THE ATLAS BUILDING PRODUCTS COMPANY, APPELLANT
v.

DIAMOND BLOCK & GRAVEL COMPANY, APPELLEE

(August 17, 1959)

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF NEW MEXICO

John P. Eastham and J. F. Hulse (of the firms of Scott, Hulse, Marshall & Feuille; and Rodey, Dickason, Sloan, Akin & Robb) for Appellant.

Dee C. Blythe and James T. Martin, Jr. for Appellees.

Before MURRAH, PICKETT and BREITENSTEIN, *Circuit Judges*; MURRAH, *Circuit Judge*.

This is an appeal from a judgment for triple damages in a private antitrust suit, laid under Section 2(a)¹ of the Clayton Act, as amended by the Robinson-Patman Act, 49 Stat. 1536, 15 U.S.C.A. 13(a).

¹ "It shall be unlawful for any person engaged in commerce, in the course of such commerce, either directly or indirectly, to discriminate in price between different purchasers of commodities of like grade and quality, whether either or any of the purchases involved in such discrimination are in commerce, where such commodities are sold for use, consumption, or resale within the United States * * * and where the effect of

The allegations are that the plaintiff-appellee, Diamond Block & Gravel Company, is a manufacturer and seller of cinder concrete building blocks to the building trade in Las Cruces, New Mexico and vicinity; that the defendant-appellant, Atlas Building Products Company, manufactures and sells the same products in El Paso, Texas and vicinity, where it has a virtual monopoly; and that it also sells those products to the building trade in Las Cruces and vicinity. The crux of the charge is that commencing in 1950, and continuing to the filing of this suit, the defendant has systematically sold its products in Las Cruces at prices actually lower than its comparable El Paso sales; that it employed its highest El Paso prices to finance its price war against competitors in New Mexico, including the plaintiff; that such practices constitute price discriminations between different purchasers, the effect of which may be to lessen competition or tend to create a monopoly in commerce in building blocks, or to injure, destroy or prevent competition by the plaintiff with the defendant, and with persons who received the benefit of such discriminations, or with customers of either of them. The appellee then alleged that as a result of the acts complained of, it has been injured in its business in the sum of \$200,000.00, for which it prayed judgment, to be tripled as required by law, and for reasonable attorney fees.

The appellant moved to dismiss the complaint for failure to state a claim upon which relief could be

such discrimination may be substantially to lessen competition or tend to create a monopoly in any line of commerce, or to injure, destroy, or prevent competition with any person who either grants or knowingly receives the benefit of such discrimination or with customers of either of them * * *."

granted under Section 2(a), and upon denial pleaded, first, that its pricing policies were not discriminatory, but if so, they were made in good faith to meet an equally low price of a competitor within the meaning of Section 2(b), 15 U.S.C.A. 13(b).² The case was submitted to the jury on the theory that the burden was upon the plaintiff to show by a preponderance of the evidence that the defendant did in the course of commerce, directly or indirectly, discriminate in price between different purchasers of concrete cinder building blocks of like grade and quality; that price discrimination in the statutory sense means the giving to one of the purchasers an advantage in price not accorded or given to other purchasers. The jury was specifically told that a price discrimination as thus defined was not alone sufficient to sustain a claim under Section 2(a), for to be actionable, the evidence must show a "reasonable possibility" of a substantial lessening of competition or tendency to create a monopoly, or injure, destroy or prevent competition with any person who grants or receives the benefit of such discrimination. Thus, the jury was instructed that "a price discrimination may exist if a seller exacts different prices from its customers * * * where one leg of the price differential is across state lines and this differential affects or has a tendency to affect competition in the ways I have mentioned"; and that "the jury has the right to consider any difference in prices charged in El Paso, Texas on the one hand, and prices exacted by it [the defendant] in

² Section 2(b) pertinently provides:

"That nothing contained in sections 12, 13, 14-21, and 22-27 of this title shall prevent a seller rebutting the prima-facie case thus made by showing that his lower price or the furnishing of services or facilities to any purchaser or purchasers was made in good faith to meet an equally low price of a competitor, or the services or facilities furnished by a competitor."

Dona Ana County, New Mexico [Las Cruces] on the other."

The defendant objected to all of these instructions and to refusal of the court to instruct the jury that to be actionable under Section 2(a), the price discrimination must be between different purchasers in direct competition with each other; and that the court therefore erroneously permitted the jury to consider the difference in the defendant's prices in El Paso on the one hand, and Las Cruces on the other.

Thus, we have squarely presented the question whether the prohibitions of Section 2(a) are applicable to price discriminations between different, but noncompeting, purchasers of products of like grade and quality. The appellant takes the position that geographic price differentials or discriminations between noncompeting purchasers in different localities are not actionable under Section 2(a), but only under Section 3 of the Robinson-Patman Act, for which a private cause of action under Section 4 admittedly does not lie. And see *Nashville Milk Co. v. Carnation Co.*, 355 U.S. 373; and *Safeway Stores, Inc. v. Vance*, 355 U.S. 389.

In the first place, there is nothing in the statute to indicate that its prohibitions are restricted to price discriminations between competing purchasers in the same area. The statute is not couched in terms of locality. See *Corn Products Co. v. Federal Trade Commission*, 324 U.S. 726, 734. The purpose of this Section as an integral part of the anti-trust legislative scheme is to prevent price discriminations in commerce which tend to injure competitive enterprise. To that end, it forbids a seller from charging different customers different prices for the same products with the effect of lessening competition. And, we know that market power is a ready means toward

competitive injury. See Sen. Rep. 1502, 74th Cong., 2 Sess., 4 (1936); H. R. Rep. 2287, 74th Cong., 2 Sess., 8 (1936); 80 Cong. Rec. 9417 (1936). Furthermore, geographic price discrimination between noncompeting purchasers was asserted and sustained under both Sections 2(a) and 3 in *Moore v. Mead's Fine Bread*, 348 U.S. 115. Indeed, the court pointed out that such practices were prohibited under the Clayton Act even before the Robinson-Patman Amendment, citing *Porto Rican American Tobacco Co. v. American Tobacco Co.*, 30 F. 2d 237. The court was sure that "Congress by the Clayton Act and the Robinson-Patman Act barred the use of interstate business to destroy local business, outlawing the price cutting employed by respondent." It went on to quote from a statement of Congressman Utterback, one of the Managers of the Robinson-Patman Amendment, that "Where, however, a manufacturer sells to customers both within the State and beyond the State, he may not favor either to the disadvantage of the other * * *." And see also *Maryland Baking Co. v. Federal Trade Commission*, 243 F. 2d 716.

It is agreed that Section 2(a) of the Clayton Act and Section 3 of the Robinson-Patman Act "overlap in some respects", but are in no way inconsistent with each other. Section 2(a) provides a civil remedy by way of triple damages, while Section 3 imposes criminal penalties for some but not all of the same infractions. * * * (Section 3 is specific in its interdictions of geographic price discriminations, while Section 2(a) is broader to prohibit the same practices between different purchasers wherever located, whether competing or not, when the effect of such discrimination may substantially lessen competition or tend to create a monopoly in any line of commerce.) Antitrust legislation is concerned primarily

with the health of the competitive process, not with the individual competitor who must sink or swim in competitive enterprise. But as a necessary incident thereto, it is concerned with predatory price cutting which has the effect of eliminating or crippling a competitor. For, surely there is no more effective means of lessening competition or creating monopolies than the debilitation of a competitor.

Our case is clearly distinguishable from suits by a local purchaser against a manufacturer, where competition between purchasers is of course essential to actionable price discrimination. See *Naifch v. Ronson Art Metal Works*, 117 F. Supp. 690, *affmd.* 218 F. 2d 202; *Klein v. Lionel Corp.*, 237 F. 2d 13; *Shaw's, Inc. v. Wilson-Jones Co.*, 105 F. 2d 331. Our case is also, we think, distinguishable on facts from *Balian Ice Cream Co. v. Arden Farms Co.*, 231 F. 2d 356, in which, while the interstate manufacturer discriminated in price between different purchasers in distant localities, the difference in the price was held not to substantially lessen competition or tend to create a monopoly in the product sold. In short, the conclusive finding of the trial court negated the existence of any prohibited consequences or the possibility thereof.

The same legal issue was before the Seventh Circuit in *Anheuser-Busch, Inc. v. Federal Trade Commission*, 265 F. 2d 677, where the court was presented with the basic question whether uniform local price cuts by an interstate manufacturer which disrupted the market to the injury of local competitors, were price discriminations within the proscription of Section 2(a). The court held that even though directed at local competitors, the price cuts were not discriminatory, apparently because they did not discriminate among local competitors. This conclusion is appar-

ently based upon the theory contended for here that the statutory words "different purchasers" means competing purchasers. We respectfully reject any such restriction upon Section 2(a). For, we are convinced that geographic price discriminations employed for predatory ends are cognizable under either Section 2(a) or Section 3, and it was therefore not error for the court to tell the jury that they might consider differences in price in El Paso County, Texas, and Dona Ana County, New Mexico, in determining whether the defendant was guilty of actionable price discrimination.

As thus construed and applied, the appellant says that the statute is so vague and indefinite as to be incapable of observance in circumspect human conduct, and is therefore fatally defective for want of due process. But we do not think the generalized language of Section 2(a) is any less definite and certain in the standards of conduct it proscribes than the restraint of trade and monopolization provisions of Sections 1 and 2 of the Sherman Act, the criminal sanctions of which have long since been sustained as against the claim of unconstitutional vagueness. See *Nash v. United States*, 229 U.S. 373. "The law is full of instances where a man's fate depends on his estimating rightly, that is, as the jury subsequently estimates it, some matter of degree." *Id.* p. 377. Other related provisions of the antitrust laws of equally vague import have withstood the constitutional test. See *F. & A. Ice Cream Co. v. Arden Farms*, 98 F. Supp. 80; *Elizabeth Arden, Inc. v. Federal Trade Commission*, 156 F.2d 132.

This brings us to the sufficiency of the facts to sustain the charge, and we think they are adequate.

It seems to be agreed that the appellant's prevailing El Paso prices to dealers and contractors during the period in question were 24¢ per standard block,

less 10 per cent, plus $1\frac{1}{2}\text{¢}$ delivery charge, or a delivered price of 23.1¢. And, there was evidence from which the jury was justified in finding that during the same period, the appellant's Las Cruces delivered price was 20¢, including a 3¢ haulage charge. There were variations in the prices to dealers and contractors, but the 20¢ delivered price was generally applicable to the principal building contractors. There was evidence to the effect that from the early part of 1952, when the appellee commenced business, it sold cinder blocks of the same grade and quality to the building trade for 23¢ per block, less 10 per cent, plus $1\frac{1}{2}\text{¢}$ haulage, or a net of 22.2¢ delivered price; that in some instances it gave a 12 per cent discount to large contractors, or a net of 21.74¢; that in May 1953, the price was changed to 24¢, less 10 per cent, plus $1\frac{1}{2}\text{¢}$ haulage, or a net of 23.1¢ delivered price. There was testimony to the effect that in April or May 1952, the contractors who had been purchasing blocks from appellee at the foregoing prices inquired whether it could meet a 20¢ delivered price; that thereafter appellee did sell block for two or three houses to one principal builder for 20¢ delivered price, but was forced to discontinue sales at this price; that this builder and other builders thereupon ceased to purchase blocks from appellee and thereafter purchased all of their blocks from the appellant.

The appellant points to the fact that it sold much of its blocks through its dealers in Las Cruces and vicinity, and that those dealers sold blocks retail always in excess of 24¢, and sometimes as much as 27¢; that the appellee was actually in competition with appellant's dealers, between which there was no price discrimination; that the appellee was unable to compete for the contractors' trade because of its inability to supply their requirements due to lack of plant

facilities and raw materials, production problems, failure to make special types of blocks needed in the building industry, wasteful increase in production costs, lack of sales organization, failure to maintain sufficient inventory, and other economic factors disabling the appellee from supplying the market demand in its trade area.

There was evidence that during the prosecution period, the appellant sold \$162,000.00 worth of blocks in the Las Cruces area for prices in excess of 24.1¢ but the evidence also showed without much dispute that during the same period, it sold \$603,163.00 worth of blocks at prices lower than 24.1¢ in the same area. From this it is reasonable to say, as did the jury, that the appellant discriminated in prices between its purchasers in El Paso and its purchasers of the same class in the Las Cruces area.

As we have seen, the jury was emphatically told that only price discriminations resulting in proscribed harmful effects were actionable. But the jury was also told, rightly we think, that in determining the presence or absence of the harmful effects, if any, it could consider the size of the appellant and its economic power in the area in which it operates, the amount of blocks sold by appellant as compared to the amount sold by appellee, and the comparative prices at the consumer level, that is, the level of contractor and retail sales; and that they should take into consideration the reasons given by purchasers for purchasing appellant's or appellee's blocks. In that connection, however, the jury was advised that the antitrust laws were never intended as an "instrument to stifle or prevent competition, or as a means to create monopolies." That, "While its primary purpose was to give some measure of protection to the small business, as against unlawful practices by strong and powerful

competitors, it does not exclude or preclude the large business from entering into any field and competing legitimately with others engaged in a like business enterprise." Thus, the jury was told that if the appellee failed to prove by a preponderance of the evidence that the price discriminations, if any, had reasonably possible harmful effects as outlined in the statute, the verdict must be for the appellant.

There was testimony that the appellant's 20¢ delivered price to the principal contractors deprived the appellee of its "bread-and-butter" business and prevented it from enlarging its plant facilities to take care of the demand, or to pursue a vigorous sales policy. There was evidence that in a healthy market the appellee could have enlarged its plant within a short time to enable it to compete for the business of the principal contractors in this particular area.

It is significant, we think, that the appellant was the largest manufacturer and supplier of cinder concrete blocks in this territory. It enjoyed a virtual monopoly in El Paso County, and possessed the dominant market power in nearby counties in New Mexico, including Dona Ana County. In this setting, it is fairly inferable that the appellant utilized its higher El Paso prices to stifle competition with its lower prices in the Las Cruces area. In other words, that the appellant utilized its dominant market power for predatory ends. It was not error, therefore, for the trial court to instruct the jury that in determining the tendency of the price discriminations to substantially lessen competition and create a monopoly, they could consider the size of the appellant, its economic power and its comparative prices to purchasers in the El Paso and Las Cruces areas. Cf. *Moore v. Mead's Fine Bread*, supra; *United States v. Griffith*, 334 U.S. 100.

In defense of its pricing policy, appellant refers to a sale of pumice blocks by a competitor, not the appellee, for 20¢ delivered price, and indicates that its 20¢ delivered price was made to meet an equally low price of a competitor. But the evidence shows that the 20¢ delivered price was an isolated sale and arose through a misunderstanding between the purchaser and the supplier. In any event, the jury was told that even though they believed by a preponderance of the evidence that the appellant did discriminate in price, if they were satisfied by the same preponderance of the evidence that such discrimination was in good faith and only to meet an equally low price of a competitor, their verdict should be for the appellant, so long as the price reduction was not below the competitor's low price. And see *Standard Oil Co. v. Federal Trade Commission*, 340 U.S. 231. We think these instructions, considered together, correctly state the antitrust law applicable to these facts.

As we have seen, the jury was positively instructed that appellant's price discriminations, if any, were actionable if there was a "reasonable possibility" of a substantial lessening in competition or tendency to create a monopoly. The appellant objected to the use of the words "reasonable possibility", insisting that the court should have required a showing of a "reasonable probability" of the proscribed effect on commerce.

The use of both phrases to mean the same thing in *Corn Products Co. v. Federal Trade Commission*, supra, has provoked considerable discussion concerning the authoritative choice of the two to define the statutory phrase "may be to substantially lessen competition * * *" which, in our judgment, needs no definition. *Federal Trade Commission v. Morton Salt Co.*, 334 U.S. 37; *E. Edelman & Co. v. Federal Trade*

Commission, 339 F. 2d 152; *Whitaker Cable Corp. v. Federal Trade Commission*, 239 F. 2d 253; *Moog Industries v. Federal Trade Commission*, 238 F. 2d 43. But whatever may be said for the use of the words "reasonable probability" as a basis for judicial action (see Mr. Justice Jackson dissenting in *Federal Trade Commission v. Morton Salt Co.*, supra), the fact remains that for good or bad, the Supreme Court has deliberately adopted "reasonable possibility" over the more positive "reasonable probability" to indicate the required quantum of proof to show the prohibited harm. *Federal Trade Commission v. Morton Salt Co.*, supra.

While the court did tell the jury that reasonable possibility of harmful results was sufficient, it did emphasize that such harm must not be "imaginary or illusive". We cannot say that the trial court erroneously used the phrase "reasonable possibility" instead of "reasonable probability".

The appellant also complains of the refusal of the trial court to give its requested instructions on proximate cause. But the jury was told clearly and unmistakably that even though it should find that the appellant's pricing policies amounted to actionable price discrimination, the burden was on the appellee to establish by a preponderance of the evidence that the losses, if any, were proximately caused by such price discriminations; that loss of business occasioned by inability to achieve or maintain an adequate inventory, inability to deliver its products to purchasers, by shut downs in its plant, failure of material and supplies, or failure to bid on business or solicit purchases, could not be attributable to the appellant's pricing policies; and if, therefore, the jury found that the loss of business was caused by any of these factors or by legitimate competition, their verdict

should be for the defendant. The jury was instructed in language too clear for doubt that there must be a causal connection between the losses sustained, if any, and the unlawful acts of the appellant. Under these instructions we think the question of proximate cause was properly submitted to the jury. And see *Story Parchment Co. v. Paterson Co.*, 282 U.S. 555.

The ascertainment of requisite damages to the appellee's business and property was submitted to the jury on the theory that it was incumbent on the appellee to prove such damages with reasonable certainty, not by guess and conjecture. But, "If the damage is certain, the fact that its extent is uncertain does not prevent a recovery." *Story Parchment Co. v. Paterson Co.*, supra. See also *Kobe, Inc. v. Dempsey Pump Co.*, 198 F. 2d 416; *Leader Clothing Co. v. Fidelity & Casualty Co. of N.Y.*, 237 F. 2d 7; *Wells Truckways v. Burch*, 247 F. 2d 194; *Bigelow v. R.K.O. Radio Pictures*, 327 U.S. 251.

On the question of damages and the amount thereof, the appellee relied on the testimony of one of its partners, who produced the records of the Company on sales and cost of production, and who also testified concerning the appellee's sales policies in the Las Cruces area in its attempts to compete with the appellant. Generally, the testimony reflected an increased cost of production commensurate with decreased production resulting from diminished sales. A public accountant analyzed the appellee's production cost and computed the amount of business the appellee might reasonably be expected to receive if El Paso prices (i.e. 21.6¢ f.o.b.) had prevailed, and from that projected the appellee's profits but for the price discrimination. A manufacturer's agent, familiar with the block building business, and particularly the production methods and procedures prevalent in the

business, testified that the appellee could have expeditiously enlarged its production facilities to meet the demand and compete for its fair share of the business in a flourishing market. The accounting procedures employed by the appellee to show damages were not as satisfactory as the trial court thought they should have been, but that they were sufficient. We agree that the evidence tended to show that as a result of the appellant's pricing policies, the appellee had been deprived of business which it would have reasonably been expected to obtain under prices generally prevailing in the El Paso area; and that as a result of the loss of this business, its profits dwindled, its cost of production increased, and the value of its business was diminished.

In that regard the jury was instructed that in determining damages it might consider as one of the elements, any profits that may have been lost by appellee in its business; and that it might also consider as another element of damages the extent to which the value of appellee's profit or the net worth of its assets had been diminished as a result of the price discrimination. The appellant objected to this instruction on the ground that it permitted the jury to assess double damages for one wrongful act.

The statute speaks of injury to "business or property". And see Section 4 of the Clayton Act, 38 Stat. 731, 15 U.S.C.A. 15.³ And, those words in their ordinary sense have been construed in terms of (1) the difference, if any, between the amounts actually realized by the injured party and what it would have reasonably expected to realize from sales but for the unlawful acts complained of; and (2) the extent to

³Section 4 provides in material part: "Any person who shall be injured in his business or property by reason of anything forbidden in the antitrust laws may sue therefor * * *."

which the value of the petitioner's property had been diminished as a result of such acts. See *Story Parchment Co. v. Paterson*, supra; *Kobe, Inc. v. Dempsey Pump Co.*, supra; *Bigelow v. R.K.O. Pictures*, supra. We think both loss of profits in business and diminishment of the assets were proper elements of damage, and the trial court did not err in so submitting the case to the jury.

The appellant also challenges the testimony of the accountant and the manufacturing agent as wholly outside the scope of the case and the knowledge of the witnesses, and as based upon hypothetical facts having no basis in the evidence and contrary thereto. Much of the accountant's testimony was of doubtful relevance, and the court excluded parts and confined other parts within narrow range. We think in the last analysis the weight and probative value of the testimony they gave concerning the amount of damages was for the jury under instructions of the court.

As the trial court observed, the jury award of \$10,000.00 was "very moderate" under the proof of the amount of sales and the worth of the business involved. We have recently restated the general rule that "on a motion for directed verdict upon the ground of the insufficiency of the evidence to take the case to the jury on the crucial issue or issues of fact, the evidence and the inferences fairly to be drawn from the evidence must be considered in the light most favorable to the party against whom the motion is directed. And if the evidence and the inferences fairly drawn therefrom—viewed in that manner—are such that reasonable minded persons in the exercise of fair and impartial judgment may reach different conclusions upon the crucial issue or issues of fact, the motion should be denied and the question submitted to the jury." *Transcontinental Bus Sys-*

tem, Inc. v. Taylor, 265 F. 2d 913. See also *Linn v. Ula Uranium, Inc.*, 265 F. 2d 916; *Story Parchment Co. v. Paterson*, *supra*. We agree with the trial court that the evidence, considered in its entirety, is sufficient to support the judgment of the court, and it is affirmed.

FILED

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JAMES R. BROWNING, Clerk

IN THE

Supreme Court of the United States

October Term, 1959

No. 389

FEDERAL TRADE COMMISSION,

Petitioner,

vs.

ANHEUSER-BUSCH, INC.,

Respondent.

BRIEF OF RESPONDENT IN OPPOSITION

*On Petition for Writ of Certiorari to the United
States Court of Appeals for the Seventh Circuit*

CHARLES M. PRICE

ROBERT C. KECK

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Respondent.

BRIEF OF RESPONDENT IN OPPOSITION

*On Petition for Writ of Certiorari to the United
States Court of Appeals for the Seventh Circuit*

Questions Presented

Petitioner's statement of the questions presented is incorrect and misleading in the light of the proposition presented by the Commission to the Seventh Circuit and the undisputed facts of this case.

In the light of the decision of the Seventh Circuit, the principal question is:

Whether the temporary lowering of prices by a seller uniformly in one marketing area while maintaining higher

prices in other marketing areas is a discrimination in price under Section 2(a) of the amended Clayton Act, where:

(1) There were characteristically different prices prevailing in different markets at all times in the industry; and

(2) There was no complaint by the Commission concerning the maintenance of those different prices.

(3) There were no sales below cost;

(4) There was no purpose to destroy or eliminate a competitor or any other predatory purpose;

The decision of the Commission and the proposition it presented to the Seventh Circuit was that a lowering of price in one marketing area without lowering prices in other marketing areas, is a discrimination in price in and of itself, without more, under Section 2(a). As stated by the Commission in its brief to the Seventh Circuit:

"Petitioner has regularly sold its beer at different prices in different markets of the country. These different market prices were not the subject of the Commission's complaint and are not in issue here. We are concerned with the lowering of the prices in one area while maintaining prices in all other areas, albeit the maintained prices might be different prices." (See Pet. p. 18)

Petitioner's statement of the question is incorrect because it confuses the relationship existing in Section 2(a) between a "discrimination in price" and the effect which such discrimination must have before a prima facie case of violation can be demonstrated. The Court below decided on these facts that there was no discrimination in

price. It expressly indicated that under the circumstances it was unnecessary for it to consider the contested issue of whether there was consequent injury to competition. While the petitioner recognizes that the injury question was not decided by the Court (Pet. p. 6) nonetheless it confuses the issue by in effect failing to recognize that Section 2(a) requires proof of two separate facts: first, that a company has "discriminated in price between different purchasers", and second, that "the effect of such discrimination" may be as described therein.

Related questions which were argued to the Court of Appeals, but which the Court found it unnecessary to determine, are:

(1) Whether respondent's temporary price reductions in the St. Louis market injured competition within the meaning of the statute merely because respondent temporarily obtained additional sales where three firmly entrenched competitors had more than 80% of sales and when competition remained keen both during and after the price reductions.

(2) Whether respondent was meeting an equally low price of a competitor in good faith within the meaning of the absolute defense of Section 2(b) of the amended Clayton Act when respondent, while seeking means to offset its general loss of sales, temporarily reduced its prices in the St. Louis market to prices which were always higher than or equal to those of its "firmly entrenched" competitors.

(3) Whether an order requiring reductions in all markets if a seller reduces a price in one market may be permitted to stand if it has no basis in fact or in statutory purpose.

Statutes Involved

In addition to the statute cited by petitioner, reference is also made to Section 2(b) of the Clayton Act, 38 Stat. 730, as amended by the Robinson-Patman Act, 49 Stat. 1526, 15 U.S.C. 13(b), which provides in pertinent part:

* * * * * Provided, however, That nothing herein contained shall prevent a seller rebutting the prima facie case thus made by showing that his lower price or the furnishing of services or facilities to any purchaser or purchasers was made in good faith to meet an equally low price of a competitor * * *."

In addition, Section 3 of the Robinson-Patman Act, 49 Stat. 1528, 15 U.S.C. 13a, provides in pertinent part:

"It shall be unlawful for any person engaged in commerce, in the course of such commerce, * * * to sell, or contract to sell, goods in any part of the United States at prices lower than those exacted by said person elsewhere in the United States for the purpose of destroying competition, or eliminating a competitor in such part of the United States; or, to sell, or contract to sell, goods at unreasonably low prices for the purpose of destroying competition or eliminating a competitor.

"Any person violating any of the provisions of this section shall, upon conviction thereof, be fined not more than \$5,000 or imprisoned not more than one year, or both."

Statement of the Case

Petitioner's statement of the case is inadequate to give the Court a proper view of the issues in this matter. Respondent desires to make its own statement of the case:

The gravamen of the Federal Trade Commission complaint issued in 1955 was that respondent sold its Budweiser beer on a nationwide basis and reduced its prices in January and June 1954 in St. Louis and St. Louis County, Missouri, with the result that after the second price reduction Budweiser exactly matched the established price charged for beer by its St. Louis competitors and that it did not simultaneously lower its prices elsewhere (App. 5-7).*

At all times involved—before, during and after the alleged price reductions in St. Louis—all retailers in St. Louis at any particular time bought Budweiser at the same price. The requisite statutory injury to competition was alleged to have occurred among respondent's St. Louis competitors (App. 8) who were continuing to sell to the same retailers to whom they had always sold at the same price at which they had previously sold.

The Commission's opinion recognizes that to require respondent to maintain uniform prices in different markets "would be contrary to market realities." (App. 60)

Pricing in the beer industry has been characterized by different prices in different markets reflecting varying transportation costs, local taxes and local competitive conditions, such as the freight advantages of competing brew-

*App. refers to the single appendix in lieu of separate appendices filed in the Court of Appeals.

ers, the general economic status of the local population, shifts in buying power due to local developments (e.g., a strike in a steel town, a recession in a local industry), advertising expenditures by competitors, and the varying markups of various wholesalers and retailers.

The Commission conceded that "All of the above distributive characteristics directly affect price and competition in any given market * * *. All of them are beyond the control of the brewers, yet the price to the consumer is controlled by them." (App. 19, 48)

Nonetheless, the Commission's order broadly restrains respondent from reducing prices in any market unless it "proportionally" reduces prices everywhere for the same quantity of beer.

Respondent had three principal competitors in the St. Louis market: (1) Falstaff Brewing Corporation, which operated eight breweries, distributed its beer widely in 26 states in the Midwest, South, Southeast and West Coast areas, and which in 1954 ranked sixth in sales and in 1955 (after the price reductions complained of) ranked fourth in sales in the United States (App. 25, 1493-96); (2) Griesedieck Bros. Brewing Co., which marketed its beer in 13 Midwestern states (App. 25); and (3) Griesedieck Western Brewing Company, which operated two breweries, marketed its beer in 20 states and which was purchased in 1954 by Carling Brewing Company, Inc., a subsidiary of Canadian Brewers, Ltd., which owns 20 breweries throughout the United States and Canada (App. 25, 33). Thus, the competitors were substantial companies, "firmly entrenched" over a wide area, not "relatively small local rivals" as implied by the petitioner (Pet. p. 7).

Over the years respondent has been one of the few brewers selling throughout the United States from one of

two brewing locations, despite the freight, tax and other disadvantages (App. 17-19, 1393). While respondent has ranked first or second in total sales, it has never had more than about 7% of national beer sales and in no major market in the United States is it first in sales, and in most of them it is not second or third (App. 82-83). On the other hand, respondent's major regional competitors have far out-stripped it in sales in each market and their sales growth in recent years has been substantially greater than respondent's (App. 1383, 1494-96). Some regional brewers like Falstaff have purchased plants in different areas of the country (App. 215-17, 930, 1171, 1174, 1179-80, 1181, 1185), thereby increasing their freight and other advantages over respondent. Furthermore, respondent is unable to compete effectively in advertising expenditures with the regional brewers in particular markets, for when a brewer competes in every market and has a minor portion of the sales in each of these markets, it necessarily "scatters its shots" in so far as advertising in that market is concerned (App. 153, 156). Thus, in 1953, Griesedieck Western had 38.9% of the St. Louis market, Falstaff 29.4%, Griesedieck Bros. 14.4%, the respondent 12.5%, and the balance of approximately 5% was shared by a large number of other brewers selling in that market (App. 26).

In the Fall of 1953, after an increase in costs due to a new and higher wage contract, respondent increased its price of Budweiser 15 cents a case in all markets, except those in Missouri and Wisconsin (App. 929, 997). This small brewery increase was multiplied by the wholesalers' and retailers' markups in many areas to an increase of 5 cents a bottle or can, or a total of \$1.20 a case at the retail level (App. 157-158).

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In the Supreme Court of the United States

OCTOBER TERM, 1959

No. 389

FEDERAL TRADE COMMISSION, PETITIONER

v.

ANHEUSER-BUSCH, INC.

*ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE SEVENTH CIRCUIT*

BRIEF FOR THE FEDERAL TRADE COMMISSION

OPINION BELOW

The opinion of the Court of Appeals (R. 1515) is reported at 265 F. 2d 677.

JURISDICTION

The judgment of the Court of Appeals was entered on April 13, 1959 (R. 1521). The time for filing a petition for certiorari was extended by order of Mr. Justice Clark, dated July 9, 1959, to September 10, 1959. The petition, filed on September 9, 1959, was granted on November 9, 1959 (R. 1523).

QUESTION PRESENTED

Whether price-cutting in a particular locality by a nationwide seller who maintains higher prices in other

localities, with consequent injury to the seller's competition in the locality in which the lower price is charged, constitutes a discrimination in price forbidden by Section 2(a) of the amended Clayton Act.

STATUTE INVOLVED

Section 2(a) of the Clayton Act, 38 Stat. 730, as amended by the Robinson-Patman Act, 49 Stat. 1526, 15 U.S.C. 13(a), provides in pertinent part:

That it shall be unlawful for any person engaged in commerce, in the course of such commerce, either directly or indirectly, to discriminate in price between different purchasers of commodities of like grade and quality, where either or any of the purchases involved in such discrimination are in commerce, where such commodities are sold for use, consumption, or resale within the United States or any Territory thereof or the District of Columbia or any insular possession or other place under the jurisdiction of the United States, and where the effect of such discrimination may be substantially to lessen competition or tend to create a monopoly in any line of commerce, or to injure, destroy, or prevent competition with any person who either grants or knowingly receives the benefit of such discrimination, or with customers of either of them: * * *.

STATEMENT

The Federal Trade Commission issued a complaint in 1955 charging respondent, which sells its beer on a nationwide basis and was the country's leading seller in 1953 and 1954, with discrimination in price, in violation of Section 2(a) of the Clayton Act, by cut-

ting the price of its beer in the St. Louis, Missouri, area while maintaining substantially higher prices in all other areas (R. 3-8). The complaint charged that the large differential between the prices charged respondent's St. Louis customers and the prices charged its customers elsewhere had diverted, and was likely to divert, substantial business to respondent from its competitors in the St. Louis area; and that the effect of this price discrimination might be substantially to lessen competition or tend to create a monopoly in the sale of beer to St. Louis retailers, or to injure, destroy, or prevent competition with respondent (R. 8).

After full evidentiary hearing, the Commission's hearing examiner issued an "Initial Decision" (R. 15-46) holding that respondent had violated Section 2(a) of the Clayton Act, as amended, and ordering it to cease and desist therefrom (R. 46). On appeal, the Commission, in its "Final Order", adopted the examiner's findings and conclusions as its own, and modified his proposed order so as to direct respondents to cease and desist from discriminating in price between different purchasers of its beer "by a price reduction in any market where respondent is in competition with any other seller, unless it proportionally reduces its prices everywhere for the same quantity of beer" (R. 47-48). The Commission also filed an "Opinion" setting forth the grounds for its adoption of the contested aspects of the examiner's decision (R. 49-61).¹ On petition for review, the Court of Ap-

¹Two of the five Commissioners did not participate in the decision (R. 48, 61).

peals, without passing upon the questions whether respondent's price reductions in St. Louis had the effects upon seller competition which the Commission found to be within the prohibitions of Section 2(a) of the Clayton Act or whether respondent had established an affirmative (meeting-competition-in-good-faith) defense under Section 2(b) of the Act, set aside the Commission's order. It did so upon the sole ground, not raised in the petition to review (R. 64-76), that the price reduction in St. Louis did not constitute a "price discrimination" within the meaning of Section 2(a).

The essential facts and conclusions of law found by the Examiner (R. 15-45) and adopted by the Commission (R. 48) are as follows:

Respondent is one of a small number of so-called "national" brewers whose beer is sold in significant volume in every state, and in nearly every market respondent's beer is sold at a premium price over "regional" beers (those sold in significant volume in a multi-state area but not nationally) and "local" beers (those sold within a small mileage radius from the brewery) (R. 18-21).

Three regional beers compete with respondent in St. Louis (R. 22). In 1953, one of these competitors had 38.9% of this market, one had 29.4% and the third had 14.4%, while respondent ranked fourth with 12.5% (R. 26). Their combined total assets were less than half the total assets of respondent (R. 38).

On October 1, 1953, respondent and the four national Milwaukee brewers increased their prices generally, the amount of the increase varying with the

locality, after having entered into wage-increase contracts (R. 21-22).² Many local and regional brewers thereupon also raised their prices but respondent's three St. Louis competitors did not, continuing to sell to retailers in the St. Louis market at the price of \$2.35 per case (R. 22).

Prior to respondent's price cuts in 1954, its beer sold in the St. Louis market at a considerably higher price than that of its three St. Louis competitors, \$2.93 per case as compared with \$2.35 (R. 22-23),³ and during this period it not only retained but steadily improved its sales volume in, and share of, that market (R. 22-23, 39-40). As of January 1, 1954, two of respondent's competitors sold about 25% of their total output in the St. Louis area, another about 14% and respondent about 3½% (R. 25).

On January 4, 1954, respondent cut its price in the St. Louis market at \$2.68 and on June 21, 1954, cut its price further to \$2.35. It made no comparable price cuts in any other market (R. 23-24). Respondent's \$2.35 price remained in force until March 1, 1955, when it raised its price to \$2.80 per case (R. 27). Shortly after this increase, the three competitors raised their per-case price in St. Louis from \$2.35 to \$2.50 (R. 27).

² Respondent raised its prices in all markets except those in Missouri and Wisconsin (R. 929). Its St. Louis competitors, which sell in various states, made no increases in St. Louis or elsewhere (R. 22, 24, 934).

³ Respondent's prices in other markets ranged from \$3.15 to \$3.80 per case (R. 23).

Respondent made the foregoing price reductions to get business away from its competitors and to punish them for refusing to increase prices when respondent did so in the fall of 1953 (R. 40). During the period of the second price cut, respondent, which had ranked fourth in the St. Louis market in 1953, "jumped into first place by a wide margin" (R. 28). During this period, its percentage of total sales, on a monthly basis, ranged from a low of 33.2% to a high of 39.3% (R. 28-29), as compared with its 12.5% share of this market in 1953 (R. 27-28).⁴

Respondent's price reductions brought its St. Louis prices far below those which it charged elsewhere, diverted substantial business from respondent's competitors in the St. Louis market, substantially lessened competition in this market, and tended to create a monopoly therein (R. 36-37, 56-57). Respondent's price reductions were not made in good faith to meet the equally low prices of competitors (R. 44, 57-59).

The Court of Appeals, in reversing the Commission, noted that respondent sold at the same price, at any given time, to all of its St. Louis customers and that its customers in other areas, who were concurrently

⁴ During this period, one of its competitors, Griesedieck Western, which in 1953 had 38.9% of the St. Louis market, ranged from a monthly low of 21.3% of total sales to a high of 27.0% (R. 26, 30), a loss of approximately one-third of its sales (R. 54). During the same period, another competitor, Griesedieck Bros., which had 14.4% of St. Louis sales in 1953, dropped as low as 4.8% of total sales, and its maximum monthly percentage was 8.8% (R. 26, 30), a loss of almost 41% of its sales (R. 54).

charged higher prices, were not in competition with its St. Louis customers (R. 1518-1519). The court held that in these circumstances the price cuts in St. Louis, even if "directed at" respondent's competitors in that market, did not constitute a price discrimination within the meaning of Section 2(a) of the Clayton Act (R. 1518). The court said that the statute does not prohibit every difference in price, but applies only to price differentials where there is "some relationship between the different purchasers which entitles them to comparable treatment" (R. 1519). In the court's view, the Commission in reality was complaining of "a lowering in price in St. Louis, whether or not discriminatory," and this practice Congress had dealt with, not in Section 2(a) of the Clayton Act, but in Section 3 of the Robinson-Patman Act, 15 U.S.C. 13a, a criminal prohibition which the Commission was given no power to enforce (R. 1520-1521). The court's holding made it unnecessary for it to determine whether the evidence supported the Commission's findings as to the effect on competition of the St. Louis price cuts, or whether the evidence established respondent's affirmative defense, pursuant to Section 2(b) of the Clayton Act, that the price cuts were made in good faith to meet the equally low prices of competitors (R. 1518).

SUMMARY OF ARGUMENT

The court below construed Section 2(a) of the Clayton Act, as amended, to proscribe the charging of different prices to different purchasers only when the purchasers are in competition with one another and hence have a relationship which "entitles them to comparable treatment." Since the price-cutting ac-

tivities of respondent (Anheuser-Busch) were confined to the St. Louis area and since its St. Louis beer purchasers, who were treated alike, were not in competition with respondent's customers in other areas, the statute, under the court's view, was inapplicable. Accordingly, the court set aside the Commission's cease-and-desist order without considering the agency's findings that competition in the seller's line of commerce was injured or respondent's contention that it had established an affirmative defense (meeting competition in good faith) under Section 2(b) of the Act.

The holding that Section 2(a) only reaches differential pricing which is shown to cause injury to competition among buyers cannot, in our view, be squared with the statutory language or history. It is also in conflict with the settled course of judicial interpretation.

A. The Section, by its express terms, relates to price discrimination which may have the effect of substantially lessening competition "*in any line of commerce*" or injuring competition "*with any person who either grants or knowingly receives the benefit of such discrimination * * **" (emphasis added). These words can be accorded meaning only by a holding that the statute covers differential pricing which causes injury *either* in the primary line of commerce (the seller's) or in the secondary line (the buyers').

B. The reference in the "effects" clause to "*any line of commerce*" appeared in the original Clayton Act. The accompanying history of that enactment shows that the primary evil which Congress had in mind was injury to seller competition resulting from

geographical price discrimination: destructive local raids against small competitors by large, multi-state manufacturers. Retaining the key language of the Clayton Act, the Robinson-Patman amendments of 1936 made additions which, it was believed, would make Section 2 more effective. It is doubtless true that Congress, in 1936, was largely motivated by disclosures as to advantages being obtained by large (principally chain-store) buyers as compared to smaller purchasers and that it focused upon injury in the so-called secondary line. But there is no suggestion that territorial price discrimination directed against seller competition was not banned. On the contrary, the objective was to expand the protections already afforded by the original Section 2.

C. Holdings in four other circuits (the Second, Fourth, Sixth, and Tenth Circuits) uniformly support the view that Section 2 prohibits a lowering of the seller's price in a particular locality where the effect may be to injure or destroy his local competitors. The decision of this Court in *Moore v. Mead's Fine Bread Co.*, 348 U.S. 115, points in the same direction. There is no contrary authority.

D. The fact that Section 3 of the Robinson-Patman Act, a criminal provision, partially overlaps Section 2 of the Clayton Act does not deprive the latter statute of its "independent force," *Nashville Milk Co. v. Carnation Co.*, 355 U.S. 373, 380. The civil remedy of a cease-and-desist prohibition is thus available in cases where there is a forbidden price discrimination "common to" both sections. *Ibid.* And see *Safeway Stores v. Vance*, 355 U.S. 389.

In spite of the fact that they incurred similar cost increases due to the same wage increases, Falstaff and respondent's other St. Louis competitors chose to absorb the increased costs, as they had a perfect right to do under our competitive system, and did not raise prices in any market (App. 934). Due to the increased spread in price between Budweiser and competitive beers, such as Falstaff, in November 1953 Budweiser sales began to decline drastically. By January 1954, Budweiser sales were down 500,000 cases per month (App. 1145) from the prior year. Falstaff sales, on the other hand, increased in each of the states in which it was in competition with respondent (App. 1384).

In an effort to offset temporarily those losses while experimenting with other means of more permanently doing so, respondent in January 1954 reduced the price of Budweiser to retailers in the St. Louis market by 25 cents a case (App. 979). Even after this reduction the price of Budweiser was still 33 cents higher than the price charged by its competitors in St. Louis. While this price change was in effect respondent's sales in the St. Louis market edged up slightly (App. 1148), but by June 1954 its total sales nevertheless declined by 1,500,000 cases per month as compared with the prior year (App. 1145).

Consequently, from June 21, 1954 to February 28, 1955, respondent further reduced the price of Budweiser in St. Louis. During this period it exactly met the price of Falstaff and others (App. 23). Despite these price reductions, in 1954 respondent's total sales declined 13% from the previous year, while Falstaff's increased by a like percent (App. 1493-94).

During the period of the price reductions in St. Louis, respondent made serious and extended efforts to find a

long range solution to its diminishing sales. Sales solicitation methods, advertising and the sales organization were changed (App. 101, 857-8, 1363-66). On a test basis the 1953⁶ price increase was rolled back in some heavy loss markets, but there was no demonstrable increase in sales in those markets since retailers there were unwilling to reduce prices by 5 cents a bottle upon a mere remission in the wholesale price of 15 cents a case (App. 174-176, 803-804). Intensive study was given to the many problems—legal, tax, production, merchandising, etc.—of introducing new and different size packages for Budweiser which would permit it to be sold at a price competitive with regional beers (App. 175, 626-27, 812-14, 1385-86, 1445). This could not be done in many states because of local regulations (App. 176, 634, 912-14). Respondent decided in the Fall of 1954 to produce and market a new beer designed to appeal to the price-conscious purchasers of lower-priced beer. Simultaneously with the introduction of this new beer on March 1, 1955 in St. Louis respondent increased its price for Budweiser in St. Louis.

Thus, the St. Louis price reductions complained of were only one part of respondent's extensive program to offset its total sales losses, while undertaking to determine the best permanent solution, i.e., changes in packaging of Budweiser and the marketing of new products. The effectiveness of the price reduction part of that program could have significance to respondent only if carried out in St. Louis. It is in the area served by respondent's St. Louis brewery where sales losses to the regional beers were heaviest (App. 1077-1130). Distribution in St. Louis is directly from respondent to the retailer so that there was no question but that its price reductions would immediately take effect in sales to retailers. More important, respond-

ent would not have the problem of freight costs involved in shipping to another market where a regional brewer located there always had a cost advantage. St. Louis is a large market with a good potential existing for additional growth. While respondent was selling at a price above its competitors in St. Louis, its St. Louis competitors accounted for 80% of the market, while respondent was last with between 12% and 13% of the market (App. 1449).

Contrary to the petitioner's statement (Pet. p. 7) that respondent's price reductions adversely affected competition in the St. Louis market, the facts only reveal a temporary shift in business between competitors in that market due to normal competitive activities. Respondent's increase during the first price reduction was a mere 4% of the market (App. 26). Its position during the period of the second price reduction ranged from 33% to 39%, the latter being during February 1955 when there was extensive buying against an announced March 1, 1955 price increase (App. 1497). However, respondent did not attain during the period of the second price reduction a share of the St. Louis market as great as its leading competitors had obtained either before or after the price reduction (App. 1497-98). Whatever position it attained was temporary; by 1956 it had receded to 17.5% of the market, whereas Falstaff at that time had 43% of the market (App. 1498).

It was conceded that in so far as respondent's St. Louis competitors were concerned, their business was "pretty well entrenched over a regional area" (App. 317). It was claimed that there was a loss of sales by these competitors to respondent in St. Louis, but it was also admitted that the permanence of the switching from brand to brand was "not appreciable" (App. 316; see also App. 233, 303).

None of the St. Louis competitors were dependent upon St. Louis sales for their profits since all of them sold in not less than 13 states and had between 75% and 86% of their sales outside St. Louis (App. 25). Moreover, Falstaff, the principal competitor whose price respondent was meeting, was the sixth largest brewer in the nation in 1954 and became fourth largest in 1955 despite respondent's price reductions (App. 1493-96).

Falstaff's net profits before taxes in 1954, despite respondent's price reductions that year, were \$6,787,000 (R. 701—Suppl. App. 1). Another competitor's net profits before taxes in the first eight months of 1954 were over \$700,000 (R. 802—Suppl. App. 2). There is no indication that the third competitor was in any financial difficulties and its loss of sales in St. Louis during the June price reduction was only 4% of its total sales. Indeed, counsel in effect conceded on trial that "this is not the case of a big dog in a particular locality trying to gobble up one or two small local dogs" (App. 316).

Moreover, it was conceded by Commission counsel during this proceeding that "it is quite clear that the increased sales of Anheuser-Busch in the St. Louis area allowed the respondent to operate profitably within that area" (R. 107—Suppl. App. 3). Further there is an express finding that there was no proof that respondent used income or profit from the rest of its business to stabilize losses in St. Louis or indeed that there were any losses in St. Louis during the period of the price reductions (App. 38).

The petition does not claim that respondent's price reductions were made for the purpose of destroying or eliminating any competitor in St. Louis. Rather it claims that

the reasons were "to get business away from its competitors, and to punish them for refusing to increase prices when [respondent] did so in the fall of 1953" (Pet. p. 4). The first ascribed reason is merely another way of stating that respondent's purpose was to attempt to obtain more business which indeed it was and is certainly not predatory in any sense. The second ascribed reason—the alleged punishment of competitors—is clearly erroneous. The partial quotation from the Initial Decision cited by petitioner (Pet. p. 4) was based upon the assumption of the Examiner that respondent had raised its prices in St. Louis in October 1953 at the same time it raised prices elsewhere in the United States. The Examiner had found, based upon this erroneous assumption, that respondent's reductions were to punish its competitors and teach them a lesson for failure to increase their prices *inside* St. Louis when respondent allegedly increased its prices *inside* St. Louis in the Fall of 1953.*

Respondent pointed out to the Commission on its appeal that the basis of the finding by the Examiner was in error since respondent had not raised its prices in St. Louis and hence there was no "lesson to be taught" to the competi-

* The Examiner's erroneous version of the facts was that AB raised prices in St. Louis in October 1953, at the same time it raised prices elsewhere in the United States, and that this price increase widened the previous differential in St. Louis to 58 cents. Thus, in the Initial Decision, the Examiner stated:

"Although AB was not struck, it, too, signed a wage-increase contract, and, as a result, on October 1, 1953 it and its Milwaukee 'national beer' shipping competitors increased prices generally in varying amounts depending upon locality. The three St. Louis brewer competitors of AB—Falstaff Brewing Corporation (hereinafter referred to as Falstaff), Griesedieck Western Brewing Company (hereinafter referred to as G.W.) and Griesedieck Brothers Brewing Company (hereinafter referred to as G.B.) did not follow this raise in prices or make a

tors. Moreover, Commission counsel before the Commission conceded that the Examiner's assumption was in error (Tr. 52, Suppl. App. 4). Accordingly, the Commission opinion did not treat this as one of the contested issues and completely omitted any reference to any alleged "punitive" or "retaliatory" motive. In the Seventh Circuit the Commission changed its position and argued that the purpose of the price reduction, as found by the Examiner and the Commission, was to punish the St. Louis competitors for not raising their prices *outside* St. Louis when respondent did. However, it was demonstrated to the Seventh Circuit that there was no support in either the findings of the Examiner or the Commission's opinion for this unfounded assertion. In the light of this background we submit that it is improper for the petition to claim that one of the purposes of the price reductions was to punish competitors.

increase in prices, continuing to sell in the St. Louis market (St. Louis and St. Louis County) at \$2.35 per 24, 12-oz. case of bottles, although many other regional and local brewers in other sections of the United States did so." (App. 21-22)

Again, in Paragraph 27, the Examiner stated:

"Secondly, these price reductions were ordered by its president for two admitted reasons: to get business away from its competitors, and to punish them for refusing to increase prices when AB did so in the fall of 1953. Apparently the lesson was well taught and better learned, because those three St. Louis breweries promptly followed AB up with price increases in March 1955, and were careful to keep the price difference between them and it at less than the 33 cents whose elimination had cost them so much sales volume." (App. 40)

Reasons for Denying the Writ

The reasons assigned by the Solicitor General for granting the writ are not valid when considered in the light of the proposition presented to the Court by the Commission and the admitted facts of this case.

The Commission asked the Seventh Circuit to hold that a lowering of price in one geographical market while maintaining higher prices in other geographical markets was, without the showing of any other circumstance, a price discrimination under Section 2(a). In effect the Commission asked the Court to hold that a seller could not lower his price in one market to get more business in that market without automatically discriminating in price. The effect of such a proposition is to say that Section 2(a) was designed to prevent price competition between competitors, which is the very essence of competition itself. Such a holding would be entirely inconsistent with the free competition which the antitrust laws as a whole are designed to protect. *Automatic Canteen Co. v. FTC*, 346 U.S. 61, 71 (1953); *cf. U.S. v. du Pont & Co.*, 353 U.S. 586, 590 (1957).

It did *not* hold, as the petition claims (p. 7), that in a case where a discrimination in price is properly found, that the statutory effects may not be found in competition among competing sellers rather than competing purchasers. Rather, the Court below held only that petitioner has failed to show a discrimination in price under the facts of this case where different prices in different markets is a characteristic of the industry and the Commission did not object to the existence of these differences, where there was no showing that respondent's price reduction resulted in any sacrifice of some part of its necessary costs and profit.

and where there was no claim of a predatory purpose such as to eliminate or destroy a competitor.

The decision was that there had to be something more than a mere lowering of the price in one market area to make the difference in price a discrimination in price within the meaning of Section 2(a). It recognized, in quoting Congressman Utterback, that a difference in price among different markets might become discriminatory either because the different purchasers were in competition or because the lower price was so low as to involve a sacrifice of some part of the seller's necessary costs and profit, leaving the deficit to be made up in higher prices to other customers. The Court stated that a mere difference in price becomes discriminatory "generally" where the different purchasers are in competition (Pet. p. 20), but certainly did not exclude by any means the fact that other circumstances might show a discrimination if there were other circumstances in the case. No such circumstances were presented to the court.

Moreover, the decision of the Court below is supported by substantial independent grounds argued to it but not decided by it.

As to all of these grounds, the decision of the Seventh Circuit is clearly in conformity with the language of the statute, its legislative history and the uniform construction of it by Courts of Appeals and this Court. None of the cases cited by petitioner are pertinent to the issue herein.

I

Reasons advanced by petitioner for granting the writ are inapplicable.

The petition asserts that the decision below is contrary to the uniform construction of Section 2(a) by Courts of Appeal and this Court and to the legislative history and therefore, there is presented a question of statutory construction of general public importance. In fact, as we shall show, there is no such conflict and hence no question of statutory construction of general public importance.

(1) There is nothing in the Clayton Act and there is no case which holds that every selective area price reduction in and of itself constitutes a price discrimination. Rather, in all of the cases cited in the petition (Pet. pp. 10-12), the undisputed facts show that the sales by the defendant were made under other circumstances, for example, sales were made below cost or were undertaken with a designedly predatory intent, which have no possible counterpart in this case.

In *Porto-Rican American Tobacco Company v. American Tobacco Company*, 30 F. 2d 234 (C.A. 2), cert. den., 279 U.S. 858, the Court noted that "it was also established that at such price the appellant lost on its business, in addition to \$20,000 per annum, \$10,147 per month" (p. 236), and that there was "sufficient evidence of a design and plan" to put a competitor out of business (p. 237).

In *Moore v. Mead's Fine Bread Co.*, 348 U.S. 115, the price of bread was cut in half in one community—and the purpose and result was to force a competitor to close his business. As this Court said, "the destruction of a com-

petitor was plainly established, as required by the amended §2(a) of the Clayton Act" (348 U.S. at 118). Actually, the question in the case was one of interstate vs. intrastate commerce. But it is clear that the Court's holding that a violation of Section 2(a) occurred was due to the character and purpose of the lower prices to certain purchasers, not the mere fact that the prices were different or that prices were lower in one community than in another.

In *E. B. Muller & Co. v. Federal Trade Commission*, 142 F. 2d 511 (C.A. 6) the Court of Appeals specifically adverted to a Commission finding that petitioner sold below cost (pp. 516-18), and the evident determination to destroy the sole competitor's business.

In *Maryland Baking Co. v. FTC*, 243 F. 2d 716 (C.A. 4) there was again a demonstrated purpose to eliminate the sole competitor in the area of the price reduction, as the Court noted (p. 718).

The recently decided case of *Atlas Building Products Company v. Diamond Block & Gravel Company*, — F. 2d — (10th Cir., Aug. 17, 1959), cited in petitioner's supplemental memorandum, involved in the words of the Court "geographic price discriminations employed for predatory ends" (Supp. Pet. p. 2) and "predatory price cutting which has the effect of eliminating or crippling a competitor" (Supp. Pet. p. 9). The asserted disagreement between the Tenth Circuit in *Atlas* and the Seventh Circuit herein is based upon the Tenth Circuit's theory that the Seventh Circuit held here that in order for a price difference to constitute a price discrimination, the purchasers receiving the different prices must be in competition. However, we did not so contend and the Court did not so hold. Thus there is no conflict between any of the decided cases and this case.

Significantly *Balian Ice Cream Co. v. Arden Farms Co.*, 231 F. 2d 356 (C.A. 9), cert. den. 350 U.S. 991 is the only adjudicated territorial price discrimination case similar to the instant case where there were no sales below cost or predatory intent. It held that a mere temporary territorial price reduction was not a violation of Section 2(a) of the amended Clayton Act. In *Balian* there was a temporary price reduction in the Los Angeles area while higher prices were maintained elsewhere. Defendant (Arden Farms) normally sold at prices higher than plaintiffs who were purely local competitors (unlike the competing St. Louis brewers here who operate over a substantial part of the country). There were multiple competitors in the Los Angeles area who together dominated the market. Arden, like petitioner, was a large national firm. The competitors remained competitively effective although profits of some of them may have suffered as a result of Arden's price reduction. It was not demonstrated that Arden had sold at a loss during the period of the price reduction and it was found that it did not reduce its prices with any purpose to eliminate a competitor. Rather competition remained vigorous.

There the Court said:

"It is also broadly stated in the argument that a differential in price in and of itself constitutes discrimination within the meaning of §2(a) of the Clayton Act, as amended.

"But this postulate is universal, arrived at with insufficient bases. 'Congress was dealing with competition, which it sought to protect, and monopoly, which it sought to prevent.' There is no presumption set up anywhere that, merely because there is a differential in various areas, necessarily a price discrimination exists." (pp. 367-68)

"The implication of the arguments of plaintiffs is that prices can never be lowered by a concern, which does any interstate business, in one area if it fails to make a corresponding cut in every locality where it does business. This postulate need not be debated under the facts here. It may be said Congress did not put a floor under all existing prices so these could never be lowered by a firm doing interstate business." (p. 367)

In short, there is not a single decision of any Court which has held that a price reduction under the circumstances involved herein constitutes a discrimination in price within the meaning of Section 2(a) of the amended Clayton Act. The only case which has been presented with this same problem—*Balian*—has been in complete accord.

(2) The legislative history is in accord that a mere difference in price in separate geographical areas does not without the presence of other circumstances constitute price discrimination within the meaning of Section 2(a) of the Clayton Act. As stated by Congressman Utterback, manager of the Conference Bill that became Section 2(a) of the Robinson-Patman Act:

"In its meaning as simple English a discrimination is more than a mere difference. Underlying the meaning of the word is the idea that some relationship exists between the parties to the discrimination which entitles them to equal treatment, whereby the difference granted to one casts some burden or disadvantage upon the other. If the two are competing in the resale of the goods concerned, that relationship exists. Where, also, the price to one is so low as to involve a sacrifice of some part of the seller's necessary costs and profit as applied to that business, it leaves that deficit inevitably to be made up in higher prices to his other

customers; and there, too, a relationship may exist upon which to base the charge of discrimination. *But where no such relationship exists, where the goods are sold in different markets and the conditions affecting those markets set different price levels for them, the sale to different customers at those different prices would not constitute a discrimination within the meaning of this bill.*" (80 Cong. Rec. 9416) (Emphasis added.)

Contrary to the statement in the petition (Pet. pp. 9-10), this quotation from Congressman Utterback did not "obviously" relate solely to discriminations productive of injury to competing customers of a seller. Congressman Utterback was not speaking of the line of commerce which might be adversely affected by a discrimination in price, but was speaking only of the meaning of the word "discrimination" as distinguished from the word "difference". The above quotation relied on by the Court says that a mere difference in price is not necessarily a discrimination in price, and went on to discuss when a difference in price becomes a discrimination in price. Congressman Utterback expressly referred to situations "where the goods were sold in different markets", and did not deal with what line of commerce might be affected.

Significantly, there is no legislative history contrary to this statement by Congressman Utterback. Petitioner's reference to other remarks by the Congressman (Pet. p. 10) is completely consistent with his prior statement. In it, he asserts the application of act when "discriminatory prices" are utilized to destroy a sole competitor. However, the quotation does not refer to the question of what constitutes a discriminatory price, which is the issue posed herein. Rather, the remark is directed to another statutory

requirement, namely the necessary effect on competition.

Congressman Utterback was not alone in his remarks. As Congressman Wright Patman, the co-author of the Act, stated in *The Robinson-Patman Act* (1938) pp. 58-59:

"Q. Can I sell at different prices to different customers in different cities who are not in competition with each other?

"Opinion: Yes, so long as the sale is not below cost. There would be no discrimination within the application of the Act unless a deliberate attempt were made to destroy or substantially lessen competition in some locality, or in primary lines of commerce."

See also 86 Cong. Rec. 8229 (1936).

The findings of the Examiner and the Commission in this case are squarely within the criteria laid down by Congressmen Utterback and Patman for lawful price differences in different areas.

The Seventh Circuit expressly recognized the significance of these legislative remarks when it stated "there is *generally* no relationship which entitles [noncompeting purchasers] to be charged the same prices." It thus recognized that if, for example, there were demonstrated sales below cost or a demonstrated intent to destroy a competitor, then different prices in different areas might constitute a discrimination in price. No such facts exist here. Instead the Commission expressly recognized, as the Court noted (Pet. p. 17), that in this industry "the prices charged for the same beers varied among different marketing areas". Under these circumstances, the Seventh Circuit properly held that the fact of illegal price discrimination had not been established by the Commission.

Thus, nothing in the legislative history to which the Solicitor General refers (pp. 8-10) detracts in the slightest from the proposition adopted by the Seventh Circuit that the mere lowering of prices in one geographical market without lowering them in other geographical markets, of itself and without more, does not establish a discrimination in price under Section 2(a).

(3) The interpretation the Court placed on Section 2(a) does not present a question of statutory construction of general public importance, when the actual decision is considered in the light of the real question presented.

As pointed out above, there is no conflict in the cases on the question whether or not a mere lowering of price in one market area while maintaining higher prices elsewhere is, without more, a price discrimination under Section 2(a).

And there is no conflict between the petitioner and the Seventh Circuit regarding the difference between Section 2(a) of the Clayton Act and Section 3 of the Robinson-Patman Act. The Seventh Circuit recognized, as the petitioner points out, that there is an overlap between the two sections. The exact extent and scope of the overlap is not important here because the Seventh Circuit held that in any event "we do not find in Section 2(a) the price discrimination proscription sought by the Commission in *this case*."

As stated by Corwin Edwards, a former economic adviser of the Federal Trade Commission:

"It is difficult to prevent discriminatory price reductions without unduly impairing the entire process of price competition. Reduction of prices is both one of the chief symptoms of competition and one of the foremost objectives of a competitive policy. Any con-

cern that reduces prices probably does so principally in the hope of taking some business away from competitors. Often, however, the competitive incentive is to experiment with price reductions of limited scope rather than with general ones. Conditions of cost, of market demand, and of competitive rivalry which are encountered in the sale of different commodities, or in the sale of the same commodity in different territorial markets, are likely to be so various as to invite a policy of price differentiation. The likelihood of price variations becomes all the greater in so far as enterprises adopt a general policy of charging ~~what~~ the traffic will bear; for under such a policy some sales are likely to be highly profitable, while others are made for any price that more than covers direct expenses. Moreover, it may be discreet for an enterprise that is contemplating a general adjustment of prices to experiment with it at certain points before adopting it generally. Local price reductions and price reductions upon particular commodities selected from one's line of products are therefore to be expected, even though the concern instituting them is not cracking the whip over its competitors." (Edwards, *Maintaining Competition* 162 (1949))

II

Independent grounds not passed upon by the Court below warrant denial of the writ.

Although the Court below did not rule upon these issues presented to it, there was no injury to competition within the meaning of the statute, resulting from any purported discrimination in price, and respondent was meeting a competitor's equally low price in good faith. The presence of these considerations requires that the writ should be de-

nied. A study of the order entered by the Commission highlights the defects in petitioner's reasoning with respect to these points and affords further proof of the correctness of the decision below.

A

There was no injury to competition.

As stated in *Balian Ice Cream Co. v. Arden Farms Co.*, 231 F. 2d 356, 368 (C.A. 9) cert. den. 350 U. S. 991:

"even if discrimination be found, it is not in and of itself denounced, but only when deleterious consequences are probable, i.e., 'where the effect of such discrimination may be substantially to lessen competition or tend to create a monopoly in any line of commerce' * * *"

In St. Louis at the time of the price reductions, there were four principal brewers of beer, including respondent. Each of them had its home office and main plant there. Prior to the price reductions, respondent's sales in St. Louis ranked a poor fourth among these brewers. Respondent's three principal competitors accounted for a total of 83% of the market.*

It is true that during the eight month period of the June price reduction respondent's St. Louis competitors sold less beer in St. Louis than they had in the corresponding period of the prior year.* It is this fact upon which the Commission bases its whole case with respect to injury to competition. However, it is equally true that even if all the sales losses of these competitors could be attributed to

* They sold approximately two-thirds of the beer in the market instead of approximately four-fifths.

respondent's price reductions—and they cannot be—then the maximum loss any one of them suffered as a result thereof, would have been less than 7% of one year's sales. The other two competitors' maximum losses would have been only 4% and 1/10th of 1%. These "losses" were regained in substance when the price reductions, admittedly temporary, were terminated.

As pointed out in the statement above, each of the competitors, and competition, in St. Louis remained keen and vigorous. Competitive activity took many forms, including new products, new sales techniques, new labels, new advertising, etc. Profits of respondent's competitors were sizable and their St. Louis sales increased as soon as respondent's price reductions were terminated.

The sole basis for the Commission's conclusion that respondent's reductions injured competition rests on its finding that competitors temporarily lost some sales to respondent. However, in no previous territorial price discrimination case in which an order or judgment was entered against a defendant has such temporary diversion of sales been the basis for the order. It is the very essence of competition, and in any event, counsel in support of the complaint conceded that the permanence of the switching from brand to brand was not appreciable (App. 316, see also App. 233, 303).

There must be additional factors other than a temporary diversion of sales showing a diminution in the competitive effectiveness of those competitors before the finding of statutory injury to competition may be made. Such additional factors bearing on continued competitive effectiveness were present in all cases where a charge of territorial price discrimination under Section 2(a) of the Robin-

son-Patman Act was sustained. A review of these cases: *Porto-Rican American Tobacco Company v. American Tobacco Company*, 30 F. 2d 234 (C.A. 2), cert. den. 279 U.S. 858; *E. B. Muller & Co. v. FTC*, 142 F. 2d 511 (C.A. 6); *Moore v. Mead's Fine Bread Co.*, 348 U.S. 115; *Margulan Baking Company v. FTC*, 243 F. 2d 716; and *Atlas Builders Products Co. v. Diamond Block & Gravel Company*, — F. 2d — (10th Cir. Aug. 17, 1959), reveals each of them contained one or more additional elements, the effect of which was materially to impair the vigor of competition:

1. There was a single competitor in the area of the price reduction whose sales were confined to that area and who therefore was highly vulnerable. Elimination of such competitor in and of itself injured competition.
2. The demonstrated intent of the discriminator was to eliminate or injure the sole competitor in the area.
3. The price was reduced to a point below cost or below the price of the competitors in the area.
4. The discrimination was continued for a period sufficient to seriously impair the competitive effectiveness of the competitor.

Not even one of these factors or any equivalent of them is present in the instant case. Respondent does not contend that all of the factors are the *sine qua non* for a finding of injury to competition. Respondent submits, however, that when, as here, there are multiple competitors in a market, all of whom are firmly entrenched in that area and have been continuously and completely competitive, some such

facts in addition to mere loss of sales are required. Otherwise the Robinson-Patman Act would be the means by which the competition required under the Sherman Act is stifled. Compare *Automatic Canteen Co. v. FTC*, 346 U.S. 61, 74.

B

Respondent met the equally low price of a competitor in good faith within the meaning of the absolute defense of Section 2(b).

This Court held in *Standard Oil Co. v. FTC*, 340 U.S. 231, that it is an absolute defense under Section 2(b) to a charge of illegal price discrimination that the alleged discriminator met the equally low price of a competitor in good faith.

In providing for the meeting competition defense the statute draws no distinction between the different types of price discriminations, either territorial or among particular individual customers. It follows that the meeting competition defense is available against any charge of price discrimination under the Act, including alleged territorial price discrimination.

The Commission claimed that when respondent sold its beer at exactly the same price as each of its competitors, it was not meeting an "equally low price" of a competitor (App. 59). How does the Commission avoid the express language of the statute? It just ignores it, as it ignores the express language of the legislative history, which provides that "the proviso permits the seller to meet the price *actually* previously offered by a local competitor." H.R. Rep. No. 2287, 74th Cong., 2nd Sess. 16, cited in *Standard Oil Co. v. FTC*, 340 U.S. 231, 248 (1951). (Emphasis added.) Peti-

tioner claims that Budweiser has "superior public acceptance" because it is usually sold at a higher price than other beers. However, Budweiser has had only 6% to 7% of national beer sales which means that 93% to 94% of consumers won't pay a higher price for it. This can hardly be "superior public acceptance". In addition, Falstaff and the other regional competitors in St. Louis had sales several times greater than those of Budweiser and, indeed, when Budweiser and Falstaff were selling at the same price, Falstaff increased its share of the market, as compared with the prior month, in six consecutive months, while Budweiser's share decreased in four months (App. 1497-1498).

The circumstances which underlay respondent's price reductions in St. Louis were that it was drastically losing business outside St. Louis in large measure to the same competitors with whom it was competing in St. Louis. However, due to various factors, including the freight rate problem and others, it was unable to lower its prices outside St. Louis in order to regain sales. Consequently, as a temporary move, prices were lowered in St. Louis in an effort to regain sales and as a stop-gap measure until more permanent steps could be taken to correct the sales problem. For the various reasons outlined above this reduction could take place only in St. Louis.

The Commission claims that this was not an "individual competitive situation" and that the defense should not be available (App. 58). It would require, as it does in its order, that in a territorial case a seller must either systematically match the prices of a competitor in all markets, or else reduce its price where it won't accomplish its purpose.

In either instance, the absolute statutory defense would be emasculated.

Petitioner's position is contradicted by the plain terms of the statute, its legislative history, the decisions of this Court, applicable economic principles, general antitrust policy, and the facts of this case. The "meeting competition" defense is available, and is an additional reason for the denial of the writ.

The order of the Commission, prohibiting as it does any reduction in prices anywhere, unless prices everywhere are proportionately reduced simultaneously, is obviously anti-competitive in its application to this industry on the facts found by both the Examiner and the Commission. Indeed, the petition indicates the petitioner's awareness of this fact when it refers to the "possible undue breadth of the Commission's order" (Pet. p. 13). However, since the order is a precise reflection of the Commission's theory of the case, as stated in its opinion (App. 50, 53) and in the Court below (Pet. p. 18), the defects in the order cannot be so glibly divorced from the unsoundness of the whole theory of the case. We submit that the doubts which the petition expresses with respect to "the breadth of the order" in reality represent a reflection upon the soundness of the contention that a mere reduction of price in one area without similar reductions everywhere else constitutes, without more, a prohibited "price discrimination".

Conclusion

The unanimous decision below is consistent with the legislative history and all the decisions of this Court and Courts of Appeals which had passed upon the question. The basis of the petition is the contention that the Court below excluded from the ambit of the amended Clayton Act all instances of territorial price discrimination. It is clear that the language of the Court cannot be so construed. Moreover, the decision of the Court below is strongly supported by other grounds presented to but not passed upon by it. We submit petitioner has made no showing of any special or important reason sufficient to justify this Court in granting a writ.

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FILED

DEC 31 1959

JAMES R. BROWNING, Clerk

No. 389

In the Supreme Court of the United States

OCTOBER TERM, 1959

FEDERAL TRADE COMMISSION, PETITIONER

v.

ANHEUSER-BUSCH, INC.

**ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE SEVENTH CIRCUIT**

BRIEF FOR THE FEDERAL TRADE COMMISSION

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competition or tend to create a monopoly *in any line of commerce*, or to injure, destroy, or prevent competition with any person who either *grants* or knowingly receives the benefit of such discrimination, or with customers of either of them" (emphasis added). The language of the section thus extends to *all* competitive injury resulting from unjustified differential pricing. Equally banned with the discrimination which may injure competition with the person who "receives" the benefit of such discrimination is the discrimination which may injure competition with the person who "grants" it. In short, a seller may not discriminate where the effect may be to injure competition either with himself *or* with his customers.

A reading of the section which will give effect to all of its parts requires that the word "discriminate" be taken in its primary dictionary meaning of "distinguish" (Webster's New International Dictionary, 2d. ed., p. 745). Thus, "any person" distinguishing (or "differentiating") in the price charged "different purchasers of commodities of like grade and quality" discriminates in price between them, and this discrimination is prohibited by § 2(a) if it has the statutory effect on *any* level of competition. The court below, in incorporating the concept that the purchasers accorded different prices must be in competition with one another and that there must be a "relationship between the different purchasers which entitles them to comparable treatment", has given "discriminate" its secondary dictionary meaning of "differen[tia]ting in treatment or favor (of one as compared with others)" (*ibid.*)—*i.e.*, differentiating "un-

fairly." It thereby makes the prevention of injury to one particular level of competition—seller competition—depend upon the fortuitous concurrence with such injury of a competitive relationship between purchasers. This renders the section largely ineffective as a means of reaching territorial discrimination which causes injury in the seller line. To put it in terms of the present case, the court has read the statute to afford protection against injury to competition among the sellers of beer in St. Louis arising out of respondent's localized price cutting if, but only if, some of the retail purchasers of respondent's beer in St. Louis are shown to be in competition with retail purchasers outside the area of the price cuts. This result cannot be squared with the comprehensive language of the section.

B. THE LEGISLATIVE HISTORY

The legislative history confirms the conclusion that Section 2 prohibits territorial price discrimination injurious to a seller's competition in a particular market or locality irrespective of whether there is competition between those who buy at different prices. The pertinent statutory language stems from the original Section 2 of the Clayton Act, 38 Stat. 730, which read in relevant part:

That it shall be unlawful for any person engaged in commerce * * * to discriminate in price between different purchasers of commodities, * * * where the effect of such discrimination may be to substantially lessen competition or tend to create a monopoly in any line of commerce * * *.

Thus, the language as to price discrimination between different purchasers was the same as it is now,⁶ but the section did not include the provision prohibiting such discriminations where the effect may be "to injure, destroy, or prevent competition with any person who * * * grants * * * the benefit of such discrimination." Despite the absence of any express language relating to those who compete with the grantor of the discrimination, it is clear that one of the major purposes of Congress when Section 2 was originally enacted in 1914 was to protect competing sellers. The House Judiciary Committee report on the bill which became the Clayton Act stated (H. Rep. 627, 63d Cong., 2d Sess., pp. 8-9):⁷

⁶ The original Section 2 contained a proviso eliminating from the Act's coverage "discrimination in price between purchasers of commodities on account of differences in the grade [or] quality * * * of the commodity sold * * *" 38 Stat. 730. In the Robinson-Patman Act this exception was brought up into the main body of the section and the prohibition now only applies to discriminations between "purchasers of commodities of like grade and quality."

⁷ In the bill as reported by the House Committee, Section 2 made it unlawful to "discriminate in price between different purchasers of commodities *in the same or different sections or communities*" (H. Rep. 627, *supra*, p. 1). The italicized phrase was later dropped, but without any purpose to change the section's meaning. The Senate Judiciary Committee in reporting, with amendments, the bill passed by the House, explained omission of the phrase as follows (S. Rep. 698, 63d Cong., 2d Sess., p. 43):

"The words 'in the same or different sections or communities,' in the first part of this section, are stricken out because they are either surplusage, when applied to 'commerce,' as defined in the bill; or if they are used in a more restricted sense, in a sense which would apply them to local transactions merely, they would attempt to regulate intrastate commerce and be therefore void."

It [Section 2] is expressly designed with the view of correcting and forbidding a common and widespread unfair trade practice whereby certain great corporations * * * have heretofore endeavored to destroy competition and render unprofitable the business of competitors by selling their goods, wares, and merchandise at a price less in the particular communities where their rivals are engaged in business than at other places throughout the country. * * * Such a system or practice is so manifestly unfair and unjust, not only to competitors who are directly injured thereby but to the general public, that your committee is strongly of the opinion that the present antitrust laws ought to be supplemented by making this particular form of discrimination a specific offense under the law when practiced by those engaged in commerce.

This concern of the original Section 2 with area price discrimination which injured competitors of the offending seller is further shown by the House Report's emphasis on the inadequacy of existing state laws to deal with this very problem (*id.*, p. 9).

It is important that these State statutes be supplemented by additional legislation by Congress, for it is now possible for one of these great corporations doing business in * * * the 48 States * * * to lower [its] prices * * * in a particular State and sell within that State at a uniform price in compliance with State laws, and thereby destroy the business of all * * * competitors operating within the State. * * *

See, also, S. Rep. 698, 63d Cong., 2d Sess., pp. 2-4. Indeed, the legislative history of the original Section

2 concentrated so heavily on the evil of a pricing practice which harmed the rivals of the seller that at least one court construed the section to apply *only* to the harm to competition with the seller. *Mennen Co. v. Federal Trade Commission*, 288 Fed. 774, 778-779 (C.A. 2), certiorari denied, 262 U.S. 759.*

There was no departure from the objective of protecting seller competition when Section 2 was amended, in 1936, by the Robinson-Patman Act. Indeed, the only significant change in the relevant language, as noted above (p. 14), was the addition of new "effect" language which speaks of injury to competitors of either the giver *or* receiver of a price discrimination. Indisputably, Congress intended the 1936 amendments to the section to expand its coverage without impairing existing prohibitions. H. Rep. 2287, 74th Cong., 2d Sess., p. 8; S. Rep. 1502, 74th Cong., 2d Sess., p. 4. As this Court said in a territorial price discrimination case involving (as here) injury to seller competition (*Moore v. Mead's Fine Bread Co.*, 348 U.S. 115, 120):

This type of price cutting was held to be "foreign to any legitimate commercial competition" even prior to the Robinson-Patman Act. * * * It seems plain to us that Congress went at least that far in the Robinson-Patman Act. * * *

The court below relied on a statement by Representative Utterback, the House manager of the conference

* This restriction was later disapproved by this Court, which held that the ban of the section extended to injury to the line of commerce engaged in by purchasers as well as that by sellers. *Van Camp & Sons v. American Can Co.*, 278 U.S. 245, 254.

bill which became the Robinson-Patman Act, in which he observed that the word "discrimination" implies "some relationship" between the parties affected which "entitles them to equal treatment," as when they compete in resale of the goods concerned; but "where no such relationship exists, where the goods are sold in different markets and the conditions affecting those markets set different price levels for them, the sale to different customers at those different prices would not constitute a discrimination within the meaning of this bill" (R. 1519). But Representative Utterback's exposition must be read in the context of the problem to which it was addressed. Congress, in 1936, was principally concerned not with area price cutting directed at rivals of the seller, but with certain undesirable practices which affected competition between buyers—practices which, Congress believed, might be inadequately covered. It was particularly concerned that large buyers, because of the leverage of their mass buying power, could obtain price or other concessions not allowed to the smaller customers of the same seller. H. Rep. 2287, 74th Cong., 2d Sess., pp. 3-4, 7; S. Rep. 1502, 74th Cong., 2d Sess., p. 3.⁹ It is understandable that a statement prompted by this dominant concern should speak of the need for

⁹ This Court has recognized that the main thrust of the Robinson-Patman Act amendments was directed at abuses of buying power, rather than selling power. In *Federal Trade Commission v. Morton Salt Co.*, 334 U.S. 37, 43, the Court said: "The legislative history of the Robinson-Patman Act makes it abundantly clear that Congress considered it to be an evil that a large buyer could secure a competitive advantage over a small buyer solely because of the large buyer's quantity purchasing ability. * * *"

the existence of competition as between the respective buyers. See *Purex Corp.*, 51 FTC 100, 105-108.¹⁰

Shortly after he made the statement upon which the court below relied, Congressman Utterback went on to declare that Section 2, as amended, would prohibit territorial price discriminations injurious to competition with the seller. He explained that previously Section 2 required "a showing of effect upon competitive conditions generally in the line of commerce and market territory concerned, as distinguished from the effect of the discrimination upon immediate competition with the grantor or grantee" (80 Cong. Rec. 9417). He then stated (*ibid.*):

The difference may be illustrated where a nonresident concern opens a new branch beside a local concern, and with the use of discriminatory prices destroys and replaces the local concern as the competitor in the local field. Competition in the local field generally has not been lessened, since one competitor has been replaced by another; but competition with the grantor of the discrimination has been destroyed. The present bill is, therefore, less rigorous in its provisions as to the effect re-

¹⁰ The Utterback definition of "discrimination" has been criticized as "ambiguous and misleading". Austin, *Price Discrimination and Related Problems under the Robinson-Patman Act* (2d rev. ed., 1959), p. 18. It has also been suggested that the definition is too restrictive because while "the definition speaks of a relationship between the purchasers involved, the act is also concerned with the relationship between the seller and his own competitors, known as 'primary line' competition." Haslett, *Price Discriminations and Their Justifications under the Robinson-Patman Act of 1936*, 46 Mich. L. Rev. 450, 454 (1948).

quired to be shown in order to bring a given discrimination within its prohibitions.

Significantly, the illustration which the Congressman chose is the prototype of the territorial price discrimination case—the situation where a large multi-state seller of superior resources raids a local market by cutting its prices in the locality with a view to injuring or eliminating its own competition in that market. Compare *Moore v. Mead's Fine Bread Co.*, 348 U.S. 115.

C. THE PRIOR DECISIONS

With one possible exception, decisions involving territorial price discrimination have recognized that a lowering of the seller's price in a particular locality is a price discrimination prohibited by Section 2 of the Act if its effect may be to injure competition in either the primary (the seller's) or the secondary (the buyers') line of commerce. See *Moore v. Mead's Fine Bread Co.*, 348 U.S. 115; *Atlas Building Products Co. v. Diamond Block & Gravel Co.*, 269 F. 2d 950 (C.A. 10); *E. B. Muller & Co. v. F.T.C.*, 142 F. 2d 511 (C.A. 6); *Maryland Baking Co. v. F.T.C.*, 243 F. 2d 716 (C.A. 4); *Porto Rican American Tobacco Co. v. American Tobacco Co.*, 30 F. 2d 234 (C.A. 2), certiorari denied, 279 U.S. 858; *Samuel H. Moss, Inc., v. F.T.C.*, 148 F. 2d 378, 155 F. 2d 1016 (C.A. 2), certiorari denied, 326 U.S. 734; but compare *Balian Ice Cream Co. v. Arden Farms Co.*, 231 F. 2d 356 (C.A. 9), certiorari denied, 350 U.S. 991.¹¹

¹¹ In a number of cases involving application of Section 2 in other contexts, price discrimination is spoken of merely in terms of a difference in price. *F.T.C. v. Simplicity Pattern*

The recent *Atlas Building* case, like this one, involved a charge that a multi-state seller had engaged in territorial price discrimination, with consequent injury to his competitors in the area of the price cut. The Tenth Circuit expressly upheld the trial court's refusal to instruct the jury that the price discrimination must be between different purchasers "in direct competition with each other" (269 F. 2d at 953) and rejected the contention that "geographic price differentials or discriminations between noncompeting purchasers in different localities are not actionable under Section 2(a) * * *" (p. 954). Referring to the Seventh Circuit's holding in the instant case that "the statutory words 'different purchasers' means competing purchasers," the Tenth Circuit "respectfully reject[ed] any such restriction upon Section 2(a)" (p. 955).

In *Moore v. Mead's Fine Bread Co.*, 348 U.S. 115, this Court sustained a judgment for the plaintiff in a treble damage action based on both Section 2(a) of the Clayton Act and Section 3 of the Robinson-Patman Act where the facts showed that a bakery engaged

Co., 360 U.S. 55, 64, 68; *F.T.C. v. Cement Institute*, 333 U.S. 683, 721-726; *F.T.C. v. Staley Mfg. Co.*, 324 U.S. 746, 757; *Moog Industries v. F.T.C.*, 238 F. 2d 43, 49 (C.A. 8), affirmed, 355 U.S. 411. The writers likewise tend to define discrimination in terms of a difference in price. Austin, *Price Discrimination and Related Problems under the Robinson-Patman Act* (2d rev. ed., 1959), pp. 19-21; Crowley, *Equal Price Treatment under the Robinson-Patman Act*, 95 U. of Pa. L. Rev. 306, 307 (1947); Haslett, *Price Discriminations and Their Justifications under the Robinson-Patman Act of 1936*, 46 Mich. L. Rev. 450, 454 (1948); McAllister, *Price Control by Law in the United States*, 4 Law & Contemp. Prob. 273, 291 (1937).

in selling bread in various places in New Mexico and Texas cut its prices in half in one town (Clovis, N. Mex.), while making no cut in prices elsewhere, with the result that a rival Clovis bakery was forced out of business. Neither this Court's opinion nor the several opinions below (see 184 F. 2d 338; 190 F. 2d 540; 208 F. 2d 777) make any reference to the existence of competition as between the seller's Clovis customers and its customers in other areas. The Court nevertheless regarded it as clear that both the Clayton Act and the Robinson-Patman Act outlawed "the price cutting employed by respondent" (348 U.S. at 120).¹²

Similarly, in the *Porto Rican, Maryland Baking* and *Moss* cases, *supra*, there was no showing that the seller's customers in the area of the price cut competed with its customers elsewhere.¹³ In the *Muller* case, the record did show discrimination between "competing customers," but the effect on competition of the territorial price discrimination was discussed solely in terms of its effect on a competitor of the seller, and the Sixth Circuit stated that "the statute requires only that the discrimination be between 'different purchasers * * *.'" 142 F. 2d at 518.¹⁴

¹² We recognize that the issue primarily raised and decided was whether the statutory provisions found to have been violated apply to wholly intrastate sales of a company engaged in an interstate business.

¹³ The *Moss* case was cited in *F.T.C. v. Morton Salt Co.*, 334 U.S. 37, for the proposition "that proof of a price differential in itself constituted 'discrimination in price,' where the competitive injury in question was between sellers" (p. 45, n. 13).

¹⁴ *Balian Ice Cream Co. v. Arden Farms Co.*, 231 F. 2d 356 (C.A. 9), certiorari denied, 350 U.S. 991, relied on by respondent (Br. in Opp., pp. 18-19), does contain language which in-

Respondent's discussion of these cases (Br. in Opp. pp. 16-17) avoids the issue whether there can be a violation of Section 2(a) where the purchasers are not in competition. Instead, respondent focuses upon the facts which led the courts, in the cited cases, to conclude that the price discriminations had prohibited effects upon competition with the seller, suggesting that there is no comparable proof of injury here. We disagree with this suggestion, but in all events the analysis has nothing to do with the decision of the court below which found it quite unnecessary to consider whether (as the Commission found) respondent's local price cuts substantially lessened competition or tended to monopoly. This case is before this Court because the Court of Appeals was of the view that there could be no discrimination within the meaning of Section 2(a), even though the price cuts "were directed at [respondent's] local competitors," inasmuch as respondent's customers in St. Louis were charged like prices and its customers in other areas were not in competition with the St. Louis distributors.

indicates that discrimination requires that the seller's customers be in competition with each other, 231 F. 2d at 367-368. But the grounds of decision were that the seller had "actually acted in good faith to meet the low prices of some of its competitors" (231 F. 2d at 366) and "that there was no causal connection between the different prices * * * and any damage sustained by [the competitors] as a result of the lowering of prices * * *" (231 F. 2d at 367). See, also, the comment on *Balkin* in *Atlas Building Products Co. v. Diamond Block & Gravel Co.*, 269 F. 2d 950, 955 (C.A. 10).

D. THE RELATIONSHIP BETWEEN SECTION 2 OF THE CLAYTON ACT
AND SECTION 3 OF THE ROBINSON-PATMAN ACT

Having concluded that the ban of Section 2 does not extend to geographical price discriminations (save in the circumstance where a purchaser outside the area of the price cut is in competition with a purchaser within the area), the court below looked to Section 3 of the Robinson-Patman Act to reinforce this conclusion.¹⁵ Reasoning that Congress dealt with "geographical price discriminations and selling at unreasonably low prices" in Section 3, the court refused to countenance what it regarded as "an attempt by [petitioner] to enlarge the scope of section 2(a) to include a matter lying expressly within the scope of section 3" (R. 1521). But, as this Court has held, *Nashville Milk Co. v. Carnation Co.*, 355 U.S. 373, the fact that there is "a partial overlap between the price-discrimination clauses" of Section 3 of the Robinson-Patman Act and those of Section 2 of the Clayton Act, as amended, does not delimit the latter section. 355 U.S. at 378. This Court stressed "the independent force of the Clayton Act" as applied to

¹⁵Section 3 of the Robinson-Patman Act, 49 Stat. 1528, 15 U.S.C. 13a, provides in pertinent part:

"It shall be unlawful for any person engaged in commerce, in the course of such commerce, * * * to sell, or contract to sell, goods in any part of the United States at prices lower than those exacted by said person elsewhere in the United States for the purpose of destroying competition, or eliminating a competitor in such part of the United States; or, to sell, or contract to sell, goods at unreasonably low prices for the purpose of destroying competition or eliminating a competitor.

"Any person violating any of the provisions of this section shall, upon conviction thereof, be fined not more than \$5,000 or imprisoned not more than one year, or both."

price discriminations "common to" both Section 2 of the Clayton Act and Section 3 of the Robinson-Patman Act, stating that the prohibitions of Section 3 "are in no way inconsistent with the provisions of the Clayton Act amendment," and that "Section 3 [of the Robinson-Patman Act] authorizes nothing which that amendment prohibits, and takes nothing from it" (pp. 380, 381). See also p. 381, n. 12.

Moreover, in the companion case of *Safeway Stores v. Vance*, 355 U.S. 389, involving a treble damage action grounded upon both statutory provisions and alleging "territorial discrimination in prices" as well as "sales at unreasonably low prices" (see *Vance v. Safeway Stores*, 239 F. 2d 144, 145 (C.A. 10)), this Court dismissed the complaint "insofar as it rests on alleged unlawful selling at unreasonably low prices" (on the ground that the only statutory remedy for an offense falling only under Section 3 of the Robinson-Patman Act is a criminal proceeding), but remanded the case for trial on the charge of "unlawful price discrimination." 355 U.S. at 390.¹⁶

¹⁶ Following the logic of this Court's decisions in *Nashville Milk* and *Safeway Stores*, the Tenth Circuit, in *Atlas Building Products Co. v. Diamond Block & Gravel Co.*, 269 F. 2d 950, refused to dismiss a geographical price discrimination under Section 2(a) merely because it was also covered by Section 3 of the Robinson-Patman Act, stating (p. 954):

"Section 2(a) provides a civil remedy by way of triple damages while Section 3 imposes criminal penalties for some but not all of the same infractions. Section 3 is specific in its interdictions of geographic price discriminations, while Section 2(a) is broader to prohibit the same practices between different purchasers wherever located, whether competing or not, when the effect of such discrimination may substantially lessen competition or tend to create a monopoly in any line of commerce. * * *"

The Court of Appeals' analysis of the provisions takes no account of the origin and purpose of Section 3. That section was originally introduced as an alternative to the Robinson-Patman bill and was later incorporated in the final bill along with those provisions which amended Section 2 of the Clayton Act.¹⁷ It was never regarded as a measure to fill the gaps left open by Section 2(a). On the contrary, its purposes were to enable an injured person to obtain quicker relief through local United States attorneys than was thought available through Federal Trade Commission processes and to provide, by criminal sanctions, a greater deterrent than the related provisions of the Clayton Act amendments.¹⁸

E. ISSUES NOT REACHED BY THE COURT OF APPEALS

Respondent's brief in opposition candidly asked this Court to consider "independent grounds not passed upon by the Court below" (Br. in Opp., p. 23), specifically its contentions that there was not adequate proof of injury to competition (*id.*, pp. 24-27),¹⁹ and

¹⁷ See *Nashville Milk Co. v. Carnation Co.*, *supra*, 355 U.S. at 381, n. 11.

¹⁸ See H. Rep. 2951, 74th Cong., 2d Sess., p. 8, and the statement of Representative Utterback, 80 Cong. Rec. 9419 (both quoted in *Nashville*, *supra*, 355 U.S. at 381); 80 Cong. Rec. 6348-6349 (Remarks of Senators King, Borah, and Robinson).

¹⁹ Respondent has contended throughout the litigation that its price cutting foray in the St. Louis area was not a discrimination prohibited by Section 2(a) because there were no sales below cost and there was no purpose to destroy or eliminate competition or "any other predatory purpose" (Br. in Opp., p. 2; see also pp. 12-13, 16). Without conceding that a showing of predatory design is a prerequisite to showing an unlawful effect under Section 2(a) (see *Samuel H. Moss, Inc. v. F.T.C.*, 148 F. 2d 378, 155 F. 2d 1016 (C.A. 2), certiorari denied, 326 U.S. 734;

that it had in all events offered proof sufficient to bring itself within the meeting-competition-in-good-faith defense (*id.*, pp. 27-29). Also in issue in any further proceeding would be respondent's contentions (R. 73-75) that the Commission's order is inapt and of unwarranted "breadth."²⁰ We do not seek to minimize these questions, which are part of the litigation and were briefed and argued at great length in the

Balian Ice Cream Co. v. Arden Farms Co., 231 F. 2d 356, 360 (C.A. 9), certiorari denied, 350 U.S. 991; *F.T.C. v. Ruiz-Ford Co.*, 343 U.S. 470, 484 (dissenting opinion)), we note that the Commission, over respondent's objections, adopted (R. 48) the examiner's findings that "these price reductions were ordered by [respondent's] president for two admitted reasons: to get business away from its competitors, and to punish them for refusing to increase prices when A.B. did so in the fall of 1953. Apparently the lesson was well taught and better learned, because those three St. Louis breweries promptly followed A.B. up with price increases in March 1955, and were careful to keep the price difference between them and it at less than the 33 cents whose elimination had cost them so much sales volume" (R. 40). This finding had basis in the evidence. Thus, respondent's president, Mr. August A. Busch, Jr., testified that "For the first time I think in the history of the brewing industry, when the large shipping brewers increased their price * * * the regionals and locals in some areas did not increase their price" (R. 934); "I imagine we wouldn't have done anything had they raised, to be perfectly frank and honest with you" (R. 935). In response to a suggestion that "the failure of Falstaff and Griesedick Bros. and Griesedick Western * * * to increase their prices after the settlement of the Milwaukee strike was the real reason for the price reduction of Budweiser in January 1954, was it not?", Mr. Busch replied, "Competitive-wise, certainly" (R. 938).

²⁰ Respondent's suggestion that the Commission order reflects its position that "a mere reduction of price in one area without similar reductions everywhere else constitutes, without more, a prohibited 'price discrimination'" (Br. in Opp., p. 29), misstates the Commission's conclusions. See Commission's opinion, R. 59-61.

court below. On the contrary, we point out that they require a careful evaluation of a three-volume record in the light of statutory criteria which, because of the very nature of the subject matter, are necessarily imprecise. Under settled practice, the adjudication of such difficult and complex issues should not be undertaken in the first instance by this Court without benefit of prior study and review in the lower federal courts. "When this Court determines that a Court of Appeals has applied an incorrect principle of law, wise judicial administration normally counsels remand of the cause to the Court of Appeals with instructions to reconsider the record." *O'Leary v. Brown-Pacific-Maxon*, 340 U.S. 504, 508.²¹ The very considerations advanced in the rare instances when the Court has departed from this precept—that the record is "slim" and the relevant standard "not difficult to apply." *O'Leary* case, *supra*, at 508—argue against any departure here. The record is a heavy one and the application of Clayton and Robinson-Patman Act concepts to complex patterns of economic behavior is, by any standard, difficult and painstaking. The Court of Appeals has the primary responsibility to make the initial determination which the review procedure contemplates. It has not yet addressed itself to the issues (involving, in large part, mixed questions of

²¹ The same point was expressly made in this Court's opinion in *Universal Camera Corp. v. Labor Board*, 340 U.S. 474, 497. The practice, of course, is such a regular and well-defined one that it is ordinarily followed without comment. For recent examples, see *Alleghany Corp. v. Breswick & Co.*, 353 U.S. 151, 175; *Fourco Glass Co. v. Transmirra Corp.*, 353 U.S. 222, 229; *Black v. Magnolia Liquor Co.*, 355 U.S. 24, 27.

law and fact) which respondent would argue in this Court. These issues were not reached because the court below proceeded upon a basic premise which we believe erroneous. If this Court agrees that the premise of the decision below was a mistaken one, it follows, we believe, that the case should be remanded so that it may proceed in orderly and ordinary course.

CONCLUSION

The judgment of the Court of Appeals should be reversed and the cause remanded for further proceedings.

Respectfully submitted.

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DECEMBER 1959.

BRIEF OF ANHEUSER-
BUSCH, INC.

IN THE
Supreme Court of the United States

October Term, 1959

No. 389

FEDERAL TRADE COMMISSION,

Petitioner,

vs.

ANHEUSER-BUSCH, INC.,

Respondent.

BRIEF OF ANHEUSER-BUSCH, INC.

***On Petition for Writ of Certiorari to the United
States Court of Appeals for the Seventh Circuit***

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IN THE
Supreme Court of the United States
October Term, 1959

No. 389

FEDERAL TRADE COMMISSION,
Petitioner,
vs.
ANHEUSER - BUSCH, INC.,
Respondent.

BRIEF OF ANHEUSER-BUSCH, INC.

PRELIMINARY STATEMENT

The position of the Federal Trade Commission that a seller may never reduce prices in a particular market while maintaining them in other non-competing markets without having "discriminate[d] in price" under Section 2(a) of the amended Clayton Act, raises serious questions concerning the proper interpretation of that Act in the light of the mandate for competition declared by the anti-trust laws.

Indeed, this interpretation of the Act has been aptly described by a Court of Appeals as ringing "the death knell

of competition". *Balian Ice Cream Co. v. Arden Farms Co.*, 231 F. 2d 356, 367 (9th Cir. 1955), cert. den. 350 U. S. 991. It becomes necessary "to reconcile such interpretation, except where Congress has told us not to, with the broader antitrust policies that have been laid down by Congress." *Automatic Canteen Co. v. Federal Trade Commission*, 346 U. S. 61, 74.

Prices, as this Court has noted, are "the central nervous system of the economy". *U. S. v. Socony Vacuum Oil Co.*, 310 U. S. 150, 226 n. 59. If construed as the Commission urges, Section 2(a) becomes the instrumentality of price uniformity and rigidity in open conflict with the purpose of the antitrust laws.

OPINIONS BELOW

The opinion of the Court of Appeals (R. 1515-1522) is reported at 265 F. 2d 677 (1959). The opinion of the Federal Trade Commission (R. 49-61) is not yet officially reported.

STATUTES INVOLVED

Section 2(a) and (b) of the Clayton Act, 15 U. S. C. 13(a) and (b), as amended by the Robinson-Patman Act, 49 Stat. 1526, provides as follows:

(a) That it shall be unlawful for any person engaged in commerce, in the course of such commerce, either directly or indirectly, to discriminate in price between different purchasers of commodities of like grade and quality, where either or any of the purchases involved in such discrimination are in commerce, where such commodities are sold for use, con-

sumption, or resale within the United States or any Territory thereof or the District of Columbia or any insular possession or other place under the jurisdiction of the United States, and where the effect of such discrimination may be substantially to lessen competition or tend to create a monopoly in any line of commerce, or to injure, destroy, or prevent competition with any person who either grants or knowingly receives the benefit of such discrimination, or with customers of either of them * * *

(b) Upon proof being made, at any hearing on a complaint under this section, that there has been discrimination in price or services or facilities furnished, the burden of rebutting the prima-facie case thus made by showing justification shall be upon the person charged with a violation of this section, and unless justification shall be affirmatively shown, the Commission is authorized to issue an order terminating the discrimination: *Provided, however*, That nothing herein contained shall prevent a seller rebutting the prima-facie case thus made by showing that his lower price or the furnishing of services or facilities to any purchaser or purchasers was made in good faith to meet an equally low price of a competitor, or the services or facilities furnished by a competitor.

Section 3 of the Robinson-Patman Act, 49 Stat. 1528, 15 U. S. C. 13a, provides in pertinent part:

“It shall be unlawful for any person engaged in commerce, in the course of such commerce, * * * to sell, or contract to sell, goods in any part of the United States at prices lower than those exacted by said person elsewhere in the United States for the purpose of destroying competition, or eliminating a competitor in such part of the United States; or, to sell, or contract

to sell, goods at unreasonably low prices for the purpose of destroying competition or eliminating a competitor.

“Any person violating any of the provisions of this section shall, upon conviction thereof, be fined not more than \$5,000 or imprisoned not more than one year, or both.”

QUESTIONS PRESENTED

The question here requires some comment. The Commission, both in its question presented and in most of its brief, seeks to include as a constituent element of the statutory phrase “to discriminate in price between different purchasers”, the separate and distinct statutory phrase “where the effect of such discrimination may be substantially to lessen competition or tend to create a monopoly . . .”

The Court of Appeals decided that the Commission had neither charged nor shown that respondent “discriminate[d] in price” within the meaning of Section 2(a). The Court below expressly noted that it never reached the statutory question of whether the effect of such discrimination was to injure competition. 265 F. 2d 677, 680 (R. 1518).

The Commission compounds the confusion by arguing variously in its brief that a difference in price plus injury to competition amounts to a discrimination in price between different purchasers (Pet. Br. 10, 12, Petitioner’s Question Presented), while arguing at other times that a mere difference in price is a discrimination in price (Pet. Br. 12, 19 fn. 11).

The Commission also confuses the question by altering the position which it took before the Court of Appeals

where it contended that a seller's mere reduction in prices in one market, while not reducing them elsewhere, constituted a discrimination in price between different purchasers.

The Commission misreads the decision of the Court of Appeals to mean that there can be a violation of Section 2(a) only where there is a difference in price between competing purchasers. In so doing, the Commission quotes or refers to all (Pet. Br. 17) the legislative history relied on by the Court below *except* the vital portion in the middle which indicates that there may be a violation involving different prices to non-competing purchasers if there is a sacrifice of some part of the seller's necessary costs and profit, as has been the situation in the prior territorial price discrimination cases.

In order to place the decision of this case in its proper perspective, we restate the question cast in its statutory and factual terms as follows:

Did respondent "discriminate in price between different purchasers" within the meaning of Section 2(a) when it reduced prices uniformly to all customers in its home market without reducing them in other markets, where

(1) There were characteristically different prices prevailing in different markets at all times in the industry;

(2) There was no complaint by the Commission concerning the existence of those different prices;

(3) There were no sales below cost or sales which sacrificed necessary profits; and

(4) There was no design or purpose to eliminate a competitor?

Moreover, the expeditious resolution of the important questions involved in this case makes it desirable that the Court consider the other bases of affirmance, argued below but not passed upon. *Ryerson v. United States*, 312 U. S. 405; *Letulle v. Scofield*, 308 U. S. 415; *Langnes v. Green*, 282 U. S. 531, 531-535; *Walling v. General Industries Co.*, 330 U. S. 545, 547. These additional questions are:

1. Did the fact that respondent maintained higher prices in markets outside St. Louis than it had inside St. Louis cause the required statutory effects upon competition among respondent's "firmly entrenched" competitors in St. Louis, when the most that is claimed is that respondent increased its sales while its competitors' sales decreased from four-fifths to two-thirds of that market?

2. Was respondent meeting an equally low price of a competitor in good faith within the meaning of the absolute defense in Section 2(b) of the statute when respondent, while seeking means to offset a widespread loss of sales, temporarily reduced its prices in its home market to prices which were always higher than or equal to those of its principal competitor, whose sales were greater than respondent's in the many markets where they competed?

STATEMENT OF THE CASE

Respondent Anheuser-Busch, Inc. (hereinafter called "AB") is the brewer of Budweiser beer.

In the beer industry, pricing is characterized at all times by different prices in different markets, reflecting differing freight rates, differing taxes imposed by States, counties and even cities, freight advantages of competitors,

competitors' advertising, recessions or other economic conditions, local costs of distribution and varying and numerous other conditions or competitive circumstances peculiar to each market (R. 19).

It was found that "all of the above distributive characteristics directly affect price and competition in any given market. * * * All of them are beyond the control of the brewers, yet the price to the consumer is controlled by them." (R. 19).

It was also expressly recognized that the beer industry is composed of "many local competitive trading areas" (R. 18), and that in the brewing industry uniform prices by a manufacturer "would be contrary to market realities." (R. 60).

Invariably, there are many beers in most markets which are sold at several different price levels. The different price levels vary from time to time and from place to place (R. 19-20). Whenever Budweiser is sold to retailers at a higher price than other beers, the amount of the difference cannot be said to be fixed by AB, since that amount and the very existence of a difference are as much dependent upon the pricing policies of the competitive beers as on AB's price. (See Appendix 1.)

AB's main plant and home office are located in St. Louis, where it distributes Budweiser directly to retailers rather than through wholesalers (R. 95, 100). AB's prices for Budweiser traditionally have been different in St. Louis than in other cities. They were different in St. Louis before 1954, during 1954, and thereafter (Comm. Exs. 5-22, R. 112, 979-996; Exs. 180-228, R. 967, printed in part at R. 1479-1491 and R. 1513).

The Commission has not challenged AB's different prices for Budweiser in St. Louis or elsewhere for the

period before 1954, or after March 1, 1955. Rather, it has noted that "respondent's prices vary in the different markets in which it sells, resulting in differences which, with the exception of the price discriminations charged in this complaint, are not in issue in this proceeding" (R. 60).

The complaint in this case charged AB with having violated Section 2(a) in having reduced prices in St. Louis County¹ on January 4, 1954, and again from June 20, 1954, until February 28, 1955, while not reducing them elsewhere (R. 5-7). The complaint noted that AB had other prices elsewhere (R. 7).

The Background of the Price Reductions in St. Louis

In St. Louis there were four substantial companies which were well entrenched over a wide area (R. 317):

(1) Falstaff Brewing Corporation operated eight breweries and distributed its beer widely in 26 states in the Midwest, South, Southeast, and West Coast. In 1954 it ranked sixth in national sales and in 1955 (after the price reductions complained of) ranked fourth (R. 25, 215-217, 930; Ex. 230, R. 969, 1493-96).

(2) Griesedieck Western Brewing Company operated two breweries, and marketed its beer in twenty states. It was purchased in 1954 by Carling Brewing Company, Inc., a subsidiary of Canadian Brewers, Ltd., which owned eighteen breweries throughout the United States and Canada (R. 25, 33, 148-49, 805).

¹ Prices were actually reduced in St. Louis County and the City of St. Louis (hereinafter jointly referred to as St. Louis).

(3) Griesedieck Bros. Brewing Co. marketed its beer from one brewery in St. Louis into thirteen states from Illinois to Texas and from California to Indiana (R. 25).

(4) AB, whose principal brewery is located in St. Louis and who had other breweries located in Newark, New Jersey and Los Angeles, California, distributed its beer throughout the United States (R. 16).

Over the years AB has been one of the few brewers selling throughout the United States, despite freight, tax and other disadvantages in most markets (R. 16-19; Ex. 128, R. 641, 1393). While AB has ranked first or second in total national sales, it has never had more than about 7% of such sales and in no major market in the United States is it first in sales, and in most of them it is not second or third (R. 82-83).

On the other hand, AB's major regional competitors have far out-stripped it in sales in each market and their sales growth in recent years has been substantially greater than AB's (Ex. 122, R. 622, 1383; Ex. 230, R. 969, 1494-96). Some regional brewers like Falstaff have purchased plants in different areas of the country (R. 215-17, 930; Ex. 30, R. 222, 1174-75; Ex. 31, R. 222, 1179-80; Ex. 32, R. 222, 1181), thereby increasing their freight and other advantages over AB. Furthermore, AB is unable to compete effectively in advertising expenditures with such brewers in most markets, for when a brewer competes in every market and has a minor portion of the sales in each such market, it necessarily "scatters its shots" in so far as advertising in a particular market is concerned (R. 153, 156).

Thus, in 1953, Griesedieck Western had 38.9% of the St. Louis market, Falstaff 29.4%, Griesedieck Bros. 14.4%, AB 12.5%, and the balance of approximately 5% was shared by a large number of other brewers selling in that market (R. 26).

In the Fall of 1953, after an increase in costs due to a new and higher wage contract, AB increased the price of Budweiser 15 cents a case in all markets, except those in Missouri and Wisconsin (R. 929; Comm. Ex. 23, R. 113, 997).² This small brewery increase was multiplied by the wholesalers' and retailers' markups in many areas to an increase of 5 cents a bottle or can, or a total of \$1.20 a case at the retail level (R. 157-158).

In spite of the fact that they incurred similar cost increases due to the same wage increases, Falstaff and AB's other St. Louis competitors chose to absorb the increased costs, and did not raise prices in any market in which they did business (R. 934). In many markets, this resulted in a greater difference in price between Budweiser and competitive beers, such as Falstaff. As a consequence, AB began to suffer severe sales losses in November, 1953 in the sales area supplied by the St. Louis brewery—losses as high as 73% in Nebraska, 53% in Oklahoma, 58% in Texas, etc. (R. 601, 860, 882; Ex. 3, R. 143, 1089-90). Continuing into December, 1953, industry sales were down only 8%, but AB's sales were 30% below the previous year and in some states were as much as 83% below the previous year (Ex. 4, R. 143, 1131; R. 32).

² The Hearing Examiner, while noting AB's general price increase, failed to note that it did not raise prices in Missouri and Wisconsin. (Compare Pet. Br. 4-5 and fn. 2).

The Price Reductions and Market Tests

In an effort to help offset temporarily these losses, while experimenting with more permanent means of doing so, on January 4, 1954, AB reduced the price of Budweiser in the St. Louis market by 25¢ per case (R. 979),³ which was still 33¢ higher than the prices of its three principal competitors in St. Louis. While this new price was in effect, AB also increased its advertising expenditures (R. 101; Ex. 119, R. 613, 1363-66), changed the organization of its sales force (R. 101, 857-53), and changed its method of solicitation and delivery of orders to the system used by all of its St. Louis competitors (R. 101, 857-58).

Despite these changes, AB's sales in St. Louis increased only moderately, but its national sales continued to decline. Sales were off more than 1,000,000 cases during May, 1954, as compared with May, 1953. In June they were off 1,500,000 cases (Ex. 14A, R. 598, 1145).

Consequently, on June 21, 1954, AB reduced the price of Budweiser in St. Louis to the same price its principal competitors had been and were then charging for their beers (R. 27, 52, 99-100). During the period that this price was in effect, AB continued its extensive surveys and tests to determine market conditions and the efficacy of various proposed courses of action in numerous sections of the country to recover lost sales volume (e.g., R. 176, 626, 803-04, 822-23). It attempted to roll back prices in certain areas where it had shortly before increased them, but with no

³ Unless otherwise indicated, all prices are for cases of 24 twelve ounce returnable bottles. Prices for other units also changed, but in varying amounts. All sales figures in cases represent statistical cases, i.e., the equivalent of 24 twelve ounce packages, or 288 ounces of beer, regardless of the type of container or container size (R. 195).

effect on sales (R. 176, 804). It gave intensive study to the production, merchandising, legal, tax and other problems of producing new packages for Budweiser (Ex. 155, R. 816, 1443; Ex. 156, R. 816, 1444; Ex. 127, R. 633, 1387; Ex. 162, R. 834, 1447; Ex. 163, R. 835, 1450; Ex. 170, R. 848, 1460; Ex. 173, R. 842, 1469). Finally, it made the same intensive study of the problems of producing a new brand of beer (R. 175, 843-46).

As a result, AB decided to produce a lower-priced beer, priced competitively with the beers of its principal competitors. On March 1, 1955, this new brand and formula were developed and ready to be marketed. It was a "popular priced" brand, and so as not to compete with itself, AB increased the price of Budweiser in St. Louis 45¢ per case. Later, a second popular priced brand, Busch Bavarian, using different merchandising concepts replaced the first beer, Busch Lager, and is widely distributed in the Midwest (R. 175, 851-56; Ex. 173, R. 842, 1469).

During the entire period of AB's price reductions in 1954-1955, its St. Louis competitors continued to sell in St. Louis at the same price at which they had previously sold. When AB raised its price of Budweiser 45 cents a case in March, 1955, its St. Louis competitors raised their prices 15 cents a case, thereby underselling Budweiser by 30 cents a case (R. 31).

Thus, the St. Louis reductions complained of were only one part of AB's extensive program to offset its total sales losses, while undertaking to determine the best permanent solution. The effectiveness of the price reduction part of that program could have significance to AB only if carried out in St. Louis. It is in the area served by AB's St. Louis brewery where sales losses to the regional beers

were heaviest (Ex. 3, R. 143, 1077-1130). Distribution in St. Louis is directly from AB to the retailer, so that there was no question but that its price reductions would immediately take effect in sales to retailers. Moreover, AB did not have the problem of freight costs involved in shipping to another market where a regional brewer located nearby always had a cost advantage (Ex. 128, R. 641, 1389-93). Finally, St. Louis was a large market with a good potential existing for additional growth: while AB was selling at a price above its competitors in St. Louis, its St. Louis competitors accounted for 83% of the market, and AB was in last place with between 12% and 13% of the market (Ex. 18, R. 181, 1149).

Results of the Price Reductions

A primary result of AB's June price reductions was that consumers of beer enjoyed a lower price on Budweiser since the price reduction was passed on to them by the retailers. As a result, total sales of beer in the St. Louis market increased substantially.

At all times, retailers of Budweiser in St. Louis were charged the same price for Budweiser. There is no evidence that the different prices to different purchasers caused injury to competition among any purchasers from AB. Instead, the injury to competition, required to be proved, was alleged to have occurred in competition among AB's competing sellers. However, no such competitor lost retail outlets; and each continued to sell to the same retailers to which it had always sold (R. 233; Ex. 202 K, R. 967, 1513). Each continued to sell at the same prices at which it had previously sold. Falstaff and Griesedieck Western each continued to make profits—up to \$7,000,000

for the year 1954—and the record is silent on the profits of the other competitor (Ex. 32, R. 222, 1510; Ex. 46, R. 249, 1512). Each continued varying competitive activities, *e.g.*, acquiring new plants, changing the formula of its products, changing its labels, varying its advertising, etc. (R. 351-52, 365, 377, 412, 440, 454-55, 868, 915).

The facts reveal only a temporary shift in business between the competitors in the St. Louis market. AB's increase during the first price reduction was a mere 4% of the market (R. 26). Although AB did attain an average of 34.7% of sales during the eight months of the second price reduction, nevertheless it did not attain during that period a share of the St. Louis market as great as its leading competitors obtained either before or after the price reduction (Ex. 231, R. 969, 1497-98). Moreover, during the period of the second price reduction, AB merely borrowed from Falstaff the losses Griesedieck Brothers and Griesedieck Western would have had to Falstaff in any event (*ibid.*).⁴ Whatever position AB attained was temporary; by 1956 it had receded to 17.5% of the market, whereas Falstaff at that time had increased to 43% of the market (*ibid.*).

Moreover, it was conceded during this proceeding that "it is quite clear that the increased sales of Anheuser-Busch in the St. Louis area allowed the respondent [AB]

⁴ According to Ex. 231, Falstaff gained more than 10% of the St. Louis market between January 1954 and January 1956. Since the combined losses of Griesedieck Brothers and Griesedieck Western during the same period was approximately 15%, part of which was accounted for by "all other beers", it is apparent that Falstaff and not AB was the primary beneficiary of the switch from Griesedieck Western and Griesedieck Brothers except during the period when AB was selling at the same price as Falstaff (June 1954-February 1955).

to operate profitably within that area" (R. 1510). Further, it was expressly found that there was no proof that respondent used income or profit from the rest of its business to stabilize losses in St. Louis, or indeed that there were any losses in St. Louis during the period of the price reductions (R. 38).

The Court of Appeals Decision

In view of the fact that the Commission in its brief to this Court not only misreads the decision below but also takes different positions here than it took below, it is appropriate to determine just what the Court of Appeals was asked to hold and what it did hold.

The Commission's Order and Opinion. The Commission's Order directed that AB cease and desist

"from discriminating, directly or indirectly, in price, between different purchasers engaged in the same line of commerce * * * by a price reduction in any market where respondent is in competition with any other seller, unless it proportionally reduces its prices everywhere for the same quantity of beer."

The Commission filed an Opinion, in support of its Order, in which it justified the Order on the ground that AB had discriminated in price by reducing its prices to all purchasers in the St. Louis market without reducing its prices elsewhere:

"As a result of maintaining higher prices to all purchasers outside of the St. Louis area and charging the lower prices, as reduced in 1954, to only those customers in the St. Louis area, Respondent discriminated in price as between purchasers differently located." (R. 53)

Significantly, despite what the Commission now asserts with respect to the reasons for the price reductions (Pet. Br. 6, 25-6 fn. 19), the Opinion of the Commission (R. 49-61) did not assert that the lower prices in St. Louis were designed for any improper purpose (see *infra*, pp. 44-48).

Having found that AB had discriminated in price, the Commission found that, because AB increased its sales in St. Louis and its principal competitors lost sales volume, the effect of "such discrimination" was to injure competition.

Commission Proposition to the Court of Appeals. The Commission asked the Court of Appeals to hold that the mere lowering of prices in one market without lowering them elsewhere was, of itself, a discrimination in price. Its proposition was set forth in its brief before the Court of Appeals (pp. 20-21):

"Petitioner has regularly sold its beer at different prices in the different markets of the country. These different market prices were not the subject of the Commission's complaint and are not in issue here. We are concerned only with the lowering of the price in one area while maintaining prices in all other areas, albeit the maintained prices might be different prices.

* * *

"The Commission found the price reductions confined to the St. Louis area to be price discriminations violative of Section 2(a) of the amended Clayton Act."

It did not claim or argue that AB's different prices in St. Louis were discriminatory because they were unreasonably low or below cost, designed to eliminate competitors in the St. Louis market so that AB would have that market to

itself. It did not attempt to embrace the anti-competitive features of the price reductions in the territorial price discrimination cases heretofore decided.⁵ It did not cite them in support of its case, and in reply to AB's comment concerning them, rejected them (Commission Br. before the Court of Appeals, p. 35), saying:

"In most instances the citation of these cases is clearly inapposite and certainly none of them are at odds with the Commission's reasoning or holding in this case."

In short, the Commission asked the Court of Appeals to hold that the mere reduction of prices in St. Louis (no matter for what purpose or how low) was enough to make the prices discriminatory under Section 2(a) unless AB reduced prices proportionally in all other markets.

AB's position before the Court of Appeals was:

(1) That a price reduction in one market without price reductions elsewhere was not, of itself and without more, a discrimination in price.

(2) That assuming a price discrimination was established by the mere lowering of prices in St. Louis, the price discrimination did not substantially lessen competition, and there was no reasonable probability that it would lessen competition, within the meaning of Section 2(a).

(3) That AB's prices in St. Louis were made in good faith to meet the equally low price of a competitor.

⁵ See *infra*, pp. 37-43, where these cases are discussed in detail.

(4) That the order, which required the maintenance of "established differences" in prices among markets, was not supported by the record, and was contrary to the statutory purpose.

The Holding of the Court of Appeals. The Court of Appeals decided the case on the exact proposition presented by the Commission, quoting from the Commission's brief. It held (265 F. 2d 677) at page 682:

"We do not find in Section 2(a) the price discrimination proscription sought by the Commission in this case."⁶

It concluded:

"Neither by a charge in the Complaint nor by the evidence has the Commission shown a violation by AB of section 2(a) of the Act."

The Court of Appeals was of the opinion that every price difference or reduction does not constitute a discrimination in price under Section 2(a), and that price discrimination means more than a mere difference or reduction in price. It commented that inasmuch as the Commission admitted that the prices charged in the St. Louis area and in other areas were different, and that this difference was not the subject of its complaint, it was clear that the mere fact of difference in price resulting from difference of markets was not a price discrimination. It noted that the Commission complained only about the lowering of the

⁶ The Commission correctly describes the holding of the Court of Appeals decision (Pet. Br. p. 4) when it states that the Court of Appeals held "that the price reduction in St. Louis did not constitute a 'price discrimination' within the meaning of Section 2(a)." Nevertheless, it misreads the basis for the decision in the remainder of the Brief.

prices in one area while the prices in all other areas were maintained, albeit the maintained prices might be different from those charged in the area in which the lowering took place (*id.* at 680-81). It also noted that the Commission was not complaining of a price discrimination between purchasers in different markets but “rather of a lowering in price in St. Louis, whether or not discriminatory” (*id.* at 682).

Having decided that a discrimination in price was neither charged nor proved, the Court of Appeals found it unnecessary to decide the other issues presented to it (R. 1518).

The Commission's Position in this Court. The Commission in its brief to this Court by asserting the Court of Appeals' “emphasis” on certain facts and then inferring from these what it conceives to be the “thrust of the opinion” (Pet. Br. 10-11), assumes erroneously that the Court of Appeals held that Section 2(a) applies only in cases where there is a difference in price between competing customers and does not, under any circumstances, embrace geographic price reductions. In fact, the Commission claims that:

“This case is before this Court because the Court of Appeals was of the view that there could be no discrimination within the meaning of Section 2(a), even though the price cuts ‘were directed at (respondent's) local competitors,’ inasmuch as respondent's customers in St. Louis were charged like prices and its customers in other areas were not in competition with the St. Louis distributors.” (Pet. Br. p. 22)

This underlying assumption is patently erroneous, as can be readily seen from what the Commission asked the Court of Appeals to decide and what it in fact decided.

The Commission now has changed its position here in several respects which are inconsistent with each other:

Before the Court of Appeals it asserted that maintaining price differences between marketing areas was not a discrimination in price, but that reducing prices in one marketing area without reducing them in other marketing areas was a discrimination in price (*supra*, pp. 16-17). It now says to this Court (Pet. Br. p. 12, 19-20 fn. 11) that mere difference in price is of itself a discrimination in price.

Before the Court of Appeals it relied solely on the reduction in price in one marketing area while maintaining prices elsewhere, as the sole criterion of price discrimination (*supra*, pp. 16-17); but it says in the question it propounds to this Court (Pet. Br. 1-2) that whether or not such a reduction in price in one marketing area is a discrimination in price depends upon its effect upon competition.

SUMMARY OF ARGUMENT

This case is complicated by the Commission's failure to brief the question decided by the Court of Appeals. The Court of Appeals decided that AB's price reductions did not, on the facts of this case, constitute a discrimination in price. The Commission's brief, however, is devoted almost entirely to proving that Section 2(a) may apply to geographical price discriminations injurious to competition in the seller's line of commerce, a proposition with which we do not take issue and with which the Court of Appeals did not take issue.

AB did not "discriminate in price" by reducing its prices in St. Louis while maintaining them elsewhere. See-

tion 2(a) on its face requires a finding of a discrimination in price as an element separate from the effect of "such discrimination."

Inasmuch as Section 2(a) is a part of the antitrust laws, it must be construed in conformity with established antitrust policy. This Court has been faced in the past with similar instances which required the construction of other parts of Section 2 of the Clayton Act in conformity with the general purposes of the antitrust laws, and it has consistently recognized the desirability, and indeed the necessity, of so construing the law. Here the problem is to determine whether the words "to discriminate in price" are to be given a meaning which will outlaw or deter normal price differentials in different marketing areas or to be given a meaning which will permit normal pricing activities that have no antitrust significance.

The legislative history, all of the adjudicated cases, and sound economic concepts, agree that mere differences or reductions in price are not, without more, discriminations in price.

The whole legislative history of Section 2 discloses that, with respect to territorial pricing, the intention was to prohibit pricing practices designed to eliminate a competitor and create a monopoly, and not to proscribe pricing activities normal in our competitive economy. This intention is clearly established from an examination of the complete legislative history surrounding the passage of Section 2. The legislative history is clear and unequivocal that mere price differences or price reductions in non-competing markets are not sufficient to constitute a price discrimination under Section 2(a), but rather that the proscription reaches only different prices when the lower prices in one market

involve the sacrifice of some part of the seller's necessary costs and thus evidence purpose and design to engage in a pricing activity which would have antitrust significance.

The decisions in the prior territorial price cases uniformly hold that a mere price reduction or difference, even if accompanied by loss of sales by multiple competitors in a market, does not constitute "discrimination in price." In all of the cases where a price discrimination was found there was the element of sales below cost or at unreasonably low prices with a purpose or design to put a competitor out of business and thus obtain a monopoly for the seller. In the only case which has squarely raised the issue presented by this case, namely, *Balian*, the court held that the absence of those factors precluded a finding of a discrimination in price from the mere reduction or difference in price.

There being no claim made in this case that AB reduced its price in the St. Louis market below cost or unreasonably low with the purpose or design of eliminating its St. Louis competitors, the Court of Appeals correctly held that

"Neither by a charge in the complaint nor by the evidence has the Commission shown a violation by AB of section 2(a) of the Act."

The Commission's belated suggestion that the facts in this case fall within the territorial price cases is entirely without merit. Indeed the suggestion, under these circumstances, is a virtual recognition by the Commission that Section 2(a) is limited to the type of situation disclosed in the prior territorial price cases.

In an antitrust context there are significant differences between "price reductions", "price differences" and "price discriminations." The line must be drawn to pre-

serve the competitive system. In territorial pricing cases this Court and the Courts of Appeals have held that the line is to be drawn at the point where there are not only different prices in different markets, but also where the seller has reduced his price in one market below cost or unreasonably low with the design and purpose to eliminate competition and gain monopolistic position.

The Order, which the Commission concedes may be unduly broad, is a precise reflection of the whole theory of the Complaint, and the doubts which are now expressed by the Commission concerning the validity of the Order are equally applicable to the Complaint itself.

The Commission's argument about the decision of the Court of Appeals is really not directed toward the ultimate holding of the Court, but rather to certain language in its opinion. If, as the Commission contends, the Opinion can be read to mean that Section 2(a) can only be applied in cases of differences in price between competing purchasers, then this Court need only correct such misimpressions. It would be futile to return the case to the Court of Appeals to have that Court rewrite its opinion to say the same thing.

The decision of the Court of Appeals is correct, and other bases for affirming its judgment may be invoked.

Section 2(a) requires that there be proof of injury to competition, or probable injury to competition, resulting from the alleged discrimination, before a violation of the Section may be found. The only alleged effect about which the Commission complains is a temporary loss of sales by some competitors of AB. A mere loss of sales by one competitor to another is the very essence of competition, however, and is not injury to competition within the mean-

ing of the statute. There must be something in addition to a loss of sales—some showing that the price reductions have or are likely to substantially lessen competition—before there can be a violation of Section 2(a). No such facts are presented here by the Commission. The vigor of the competition offered by AB's competitors continued at all times undiminished.

Moreover, even if injury to competition is found, under Section 2(b) it is an absolute defense if the seller's lower price was meeting the equally low price of a competitor in good faith. Here, AB's lower price "exactly matched" that of its competitors. The Commission's claim that the competitors' loss of sales show that this was "undercutting" rather than "meeting" competition is spurious. The price reduction in St. Louis was an ordinary, commercial effort by AB to increase sales and attempt to offset general sales losses, and falls completely under the protection of this Section 2(b) defense.

ARGUMENT

I

RESPONDENT DID NOT "DISCRIMINATE IN PRICE" WITHIN THE MEANING OF SECTION 2(a).

The Commission's brief is devoted to proving that Section 2(a) may apply to geographical price discriminations injurious to seller competition. But AB has never denied this, and does not deny it herein, and it does not understand that the Court of Appeals denied it.

The difficulty with the Commission's position is that the decision below, on the facts of this case, does not raise the

issue argued by the Commission. The Court of Appeals construed and applied only a single phrase of the statute—"to discriminate in price"—a phrase which is conspicuous in the Commission's brief by the scant attention given to it.

Section 2(a) of the amended Clayton Act provides in pertinent part:

"It shall be unlawful * * * *to discriminate in price between different purchasers* of commodities of like grade and quality * * * where the effect of *such discrimination* may be substantially to lessen competition or tend to create a monopoly in any line of commerce, or to injure, destroy, or prevent competition with any person who either grants or knowingly receives the benefit of *such discrimination*, or customers of either of them." (Emphasis added.)

There are at least three elements which must be proved before a violation of the statute can be found: First, that a seller "discriminate(d) in price between different purchasers"; second, that there may be, in any line of commerce, injury to competition as defined by the statute; and third, that the injury was caused by or was the effect of "such discrimination."

The decision of the Court below turned on the question of whether AB "discriminate(d) in price" between different purchasers within the meaning of the statute. It held that in the absence of some relationship between the prices in St. Louis and in other areas and the purchasers receiving them (such as sales below necessary costs, and profit, which were not found here), there was no "discrimination in price."

Notwithstanding this clear holding, the Commission's brief speaks entirely to another question—the question of the "line of commerce" in which any injury may be found

to occur. Only incidentally, while discussing this question which was expressly not passed upon by the Court of Appeals, does it even mention the issue decided by the Court of Appeals.⁷ Thus, the argument by the Commission is not responsive to the decision below, and even if the Commission is entirely correct—we do not deny most of its brief—it can have no effect upon the decision. The issue remains, did AB “discriminate in price” between different purchasers within the meaning of Section 2(a) of the amended Clayton Act.

A

Section 2(a), as Part of the Antitrust Laws, Must Be Construed in Conformity With Estab- lished Antitrust Policies.

Section 2(a) is part of the antitrust laws and must be construed consistently with all of the antitrust laws. Particularly appropriate to the contention of the Commission here is the statement of this Court in *Automatic Canteen Co. v. F. T. C.*, 346 U. S. 61, in connection with another portion of Section 2 of the amended Clayton Act:

“* * * § 2(f) could, if the Commission’s view in this case prevails, become a major reliance for simplified enforcement of the Act not only by the Commission but by plaintiffs suing for treble damages. Such enforcement, however, might readily extend beyond the prohibitions of the Act and, in doing so, help give rise to a price uniformity and rigidity in open conflict with the purposes of other antitrust legislation.” (p. 63)

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⁷ The Commission’s brief mentions the interpretation which it claims should be given the word “discriminate” in only one short paragraph (Pet. Br. 12; see also Pet. Br. 19 fn. 11, 21 fn. 13).

“* * * Although due consideration is to be accorded to administrative construction where alternative interpretation is fairly open, it is our duty to reconcile such interpretation, except where Congress has told us not to, with the broader antitrust policies that have been laid down by Congress.” (p. 74)

In *Standard Oil Co. v. F. T. C.*, 340 U. S. 231, this Court again stated:

“The heart of our national economic policy long has been faith in the value of competition. In the Sherman and Clayton Acts, as well as in the Robinson-Patman Act, ‘Congress was dealing with competition, which it sought to protect, and monopoly, which it sought to prevent.’ *Staley Mfg. Co. v. Federal Trade Comm’n*, 135 F. 2d 453, 455.” (p. 248)

Here, this Court has the problem of construing Section 2(a) to accord with “the heart of our national economic policy”. Are the words, “to discriminate in price” to be given meaning which will outlaw or deter normal price differentials in different marketing areas resulting from various economic causes, or are they to be given a meaning which permits normal pricing activities that have no anti-trust significance?

The Commission asked the Court of Appeals to hold that a mere reduction in price in St. Louis without reducing prices in other marketing areas was of itself “to discriminate in price”. But reductions in price in various marketing areas are the result of normal competitive activity. Differences in price between different marketing areas are normal in most industries, reflecting not only different costs and market conditions but also active competition for business.

In fact, lack of territorial price differences and periodic reductions might be strong evidence of a lack of vigorous competition.

The Commission is trying here to plow new ground and to apply the words "to discriminate in price" in a sense that cuts across normal business activity. The Court of Appeals would have none of it.

B

Neither a Mere Reduction in Price in One Marketing Area Nor a Mere Difference in Price Between Marketing Areas is a Discrimination in Price Under Section 2(a) Unless There is Proof that the Lower Price is Below Cost or Unreasonably Low for the Purpose or Design to Eliminate Competition and Thereby Obtain a Monopoly.

In its meaning as simple English, and certainly in an antitrust context, a discrimination in price is more than a mere difference or reduction in price. This Court, without passing on the question, has indicated that "plainly enough," this is one interpretation. *Automatic Canteen Co. v. F. T. C.*, 346 U. S. 61, 70 n. 10. The dictionary also so indicates (Pet. Br. 12), and the Court of Appeals applied such a meaning (*ibid.*).⁸

⁸ The Commission's brief seeks to apply what it calls the "primary" dictionary meaning of "discriminate," namely, "distinguish," rather than what it calls the "secondary" dictionary meaning applied by the Court below (Pet. Br. 12). In point of fact, the dictionary definition sought to be applied by the Commission is one of numerous meanings and not a *primary* one (see Explanatory Notes, Webster's New International Dictionary, 2d ed. p. xciv, #44), and stated in full is "to make a distinction; to distinguish accurately; as, to *discriminate* between fact and fancy" (p. 745), a definition inappropriate to this case. Moreover, the definition adopted by the Court below is clearly in accord with the legislative history (*infra*, pp. 31-36).

The legislative history, all the adjudicated cases, and sound economic concepts agree that mere differences or reductions in price are not, without more, discriminations in price.

This question was presented to the 9th Circuit in *Balian Ice Cream Co. v. Arden Farms Co.*, 231 F. 2d 356, 367-68 (1955), cert. den. 350 U. S. 991, where the Court said:

“It is also broadly stated in the argument that a differential in price in and of itself constitutes discrimination within the meaning of 2(a) of the Clayton Act, as amended.

“But this postulate is universal, arrived at with insufficient bases. ‘Congress was dealing with competition, which it sought to protect, and monopoly, which it sought to prevent.’ There is no presumption set up anywhere that, merely because there is a differential in various areas, necessarily a price discrimination exists. * * *

“But it must be remembered that differentials are not proscribed in the language of the statute. The statute requires that there be some discrimination. * * *

“But, even if discrimination be found, it is not in and of itself denounced, but only when deleterious consequences are probable, i.e., where the effect of such discrimination may be substantially to lessen competition or tend to create a monopoly in any line of commerce. * * *”

This is the only case we find in which this question has been directly raised for decision. Here, it is raised in this Court for the first time (except as this Court denied certiorari in *Balian*).

The reasons why a discrimination in price must be more than a mere difference or reduction in price are unequivocally clear. As Corwin Edwards, former Economic Advisor of the FTC, has stated:

“It is difficult to prevent discriminatory price reductions without unduly impairing the entire process of price competition. Reduction of prices is both one of the chief symptoms of competition and one of the foremost objectives of a competitive policy. Any concern that reduces prices probably does so principally in the hope of taking some business away from competitors. Often, however, the competitive incentive is to experiment with price reductions of limited scope rather than with general ones. Conditions of cost, of market demand, and of competitive rivalry which are encountered in the sale of different commodities, or in the sale of the same commodity in different territorial markets, are likely to be so various as to invite a policy of price differentiation. The likelihood of price variations becomes all the greater in so far as enterprises adopt a general policy of charging what the traffic will bear; for under such a policy some sales are likely to be highly profitable, while others are made for any price that more than covers direct expenses. Moreover, it may be discreet for an enterprise that is contemplating a general adjustment of prices to experiment with it at certain points before adopting it generally. Local price reductions and price reductions upon particular commodities selected from one's line of products are therefore to be expected, even though the concern instituting them is not cracking the whip over its competitors.” (*Edwards, Maintaining Competition* 162 (1949))

1. The Legislative History Confirms the Holding Below that a Mere Reduction or Difference in Price Is Not a Discrimination in Price.

The Commission's brief (Pet. Br. 13-19) reviews selected portions of the legislative history to show that the original Section 2 (1914) and the Robinson-Patman amendment (1936) were intended to embrace territorial price discriminations when they had the requisite effect in the seller's line of competition. We have no quarrel with this proposition, and we do not believe the Court of Appeals had any misunderstanding of this fact, either. However, we do take issue with the attempt by the Commission to claim that the legislative history supports the proposition that all territorial price differences or reductions are, without more, "discriminations in price".

In fact, the legislative history viewed in its entirety speaks directly to the issue, speaks unwaveringly, and is not contradicted by anything we have found in the legislative history or by anything cited by the Commission. The legislative history of Section 2(a) is particularly significant here because it demonstrates that Congress clearly intended to proscribe certain unfair pricing practices designated to eliminate a competitor and had no intention whatsoever of proscribing pricing activities normal in our competitive economy.

At the time Section 2 was passed in 1914 Congress had before it the pricing practices which had been condemned in prior cases, among which was "local price cutting at points where necessary to suppress competition." The House Judiciary Committee Report (H. Rep. 627, 63d Cong., 2d Sess., pp. 8-9) stated:

“The necessity for legislation to prevent unfair discriminations in prices with a view of destroying competition needs little argument to sustain the wisdom of it. In the past it has been a most common practice of great and powerful combinations engaged in commerce—notably the Standard Oil Co., and the American Tobacco Co., and others of less notoriety but of great influence—to lower prices of their commodities, oftentimes below the cost of production in certain communities and sections where they had competition, with the intent to destroy and make unprofitable the business of their competitors, and with the ultimate purpose in view of thereby acquiring a monopoly in the particular locality or section in which the discriminating price is made. Every concern that engaged in this evil practice must of necessity recoup its losses in the particular communities or sections where their commodities are sold below cost or without a fair profit by raising the price of this same class of commodities above their fair market value in other sections or communities.” (Emphasis added.)

This was the legislative purpose behind Section 2 of the 1914 Act. It belies any intention on the part of Congress to make every territorial price reduction or every difference in price between different marketing areas an illegal price discrimination.

The Commission's Brief (Pet. Br. 15-6) is less than candid in discussing the legislative history of Section 2 of the Clayton Act (1914) as it relates to the Commission's central proposition. It quotes only portions of the House Judiciary Committee Report out of context in an effort to sustain its proposition that any territorial price difference

or reduction amounts to discrimination in price if there is the requisite effect in the seller's line of competition.

However, it is enabled to reach this result only by conveniently omitting every reference in the report to the real intent of Congress—to prohibit only price reductions or differences, usually below cost, made with the purpose or intent to destroy competition and thereby obtaining a monopoly. In order that this Court may appreciate the extent to which the Commission has misstated the legislative history underlying the passage of the 1914 act, we are attaching as Appendix 2 the complete House Judiciary Report insofar as it deals with Section 2 of the Clayton Act. It will be noted that there are repeated references in the Report to the nature of the price differences which were being proscribed, and that there was no intent to proscribe all territorial price differences or reductions but only those which were undertaken with an intent to destroy competition and obtain a monopoly.

In the only case between 1914 and 1936 involving territorial price reductions (*Porto Rican American Tobacco Company v. American Tobacco Company*, 30 F. 2d 234 (2d Cir. 1929)), cert. den. 279 U. S. 858, that very pricing situation was involved, namely, selling below cost in a local market for the purpose and design of eliminating the only local competitor in that market.

The Robinson-Patman amendment to Section 2 was spurred by the Senate investigation in 1934 of chain stores and their advantageous buying power. In 1936 Congress undertook to strengthen Section 2 by eliminating the advantages which the chain stores had and also to proscribe certain types of brokerage, advertising allowances, and

other advantages which the large buyers, particularly the chain stores, enjoyed.

But the underlying purpose of Section 2, as a law prescribing recognized unfair competitive pricing practices, was not changed. In fact, the House Committee on the Judiciary (H. Rep. 2287, 74th Cong., 2d Sess., 1936) stated:

“It is the design and intent of this bill to strengthen existing anti-trust laws, prevent unfair price discriminations, and preserve competition in interstate commerce * * *.”

“There is nothing in it to penalize, shackle, or discourage efficiency, or to reward inefficiency. There is nothing in it to fix prices, or enable the fixation of prices; nor to limit the freedom of price movements in response to changing market conditions.” (p. 17)

As stated by Congressman Utterback, manager of the Conference Bill that became Section 2(a) of the Robinson-Patman Act:

“In its meaning as simple English a discrimination is more than a mere difference. Underlying the meaning of the word is the idea that some relationship exists between the parties to the discrimination which entitles them to equal treatment, whereby the difference granted to one casts some burden or disadvantage upon the other. If the two are competing in the resale of the goods concerned, that relationship exists. Where, also, the price to one is so low as to involve a sacrifice of some part of the seller's necessary costs and profit as applied to that business, it leaves that deficit inevitably to be made up in higher prices to his other customers; and there, too, a relationship may exist upon which to base the charge of discrimination. But

where no such relationship exists, where the goods are sold in different markets and the conditions affecting those markets set different price levels for them, the sale to different customers at those different prices would not constitute a discrimination within the meaning of this bill." (80 Cong. Rec. 9416)

The Commission construes the decision below as holding that "Section 2(a) only reaches differential pricing which is shown to cause injury to competition among buyers" (Pet. Br. 8). The Commission reaches this conclusion only by ignoring the complete text of the legislative history cited by the Court. Congressman Utterback insisted upon the existence of "some relationship" in order for a difference to be actionable as a discrimination. To be sure, he said that if two purchasers are competing in the resale of the goods concerned, that relationship exists. But he also said, in a contiguous phrase, again conveniently omitted in the Commission's Brief (p. 17):

"Where, also, the price to one [buyer] is so low as to involve a sacrifice of some part of the seller's necessary costs and profit as applied to that business, it leaves that deficit inevitably to be made up in higher prices to his other customers; and there, too, a relationship may exist upon which to base the charge of discrimination." (Material in brackets added.)

The relationship so described plainly is not limited to having its effects felt in competition among buyers. There is no reason to believe that Congressman Utterback did not intend them to be applicable to sellers, since he plainly understood the problems of some territorial pricing, as the Commission makes clear (Pet. Br. 18). Moreover, con-

temporaneous commentaries understood his remarks to have this effect, 50 Harv. L. Rev. 106, fn. 9 (1936).⁹

Significantly, there is no legislative history contrary to the above quoted statement by Congressman Utterback. Other remarks by Congressman Utterback, cited by the Commission, which it claims are contradictory (Pet. Br. 18), are completely consistent with his prior statement. In them, he asserted the application of the Act when "discriminatory prices" are utilized to destroy a sole competitor. However, the quotation does not refer to the question of what constitutes a discriminatory price, which is the issue actually posed by the decision of the Court of Appeals. Rather, the remark is directed to another statutory requirement, namely, the necessary effect on competition.

The Commission cannot deny that the legislative history cited by the Court below is a proper interpretation of the term "discriminate in price". It is the only applicable legislative history, and it clearly demonstrates that Congressman Utterback had in mind both secondary and primary line cases. He clearly referred to seller competition when he mentioned the creation of the relationship by sales below the seller's necessary costs and profit.

Thus, the legislative history shows that Section 2(a) was enacted to correct certain pricing practices which have been found to be against public policy, because inimical to free competition, but at the same time not to outlaw territorial price differences which resulted from normal competition in a legitimate activity for gain.

⁹ The secondary authorities which the Commission cites in the footnotes to its brief (p. 18) as having criticized the Utterback definition of discrimination for ignoring the seller's line of competition have overlooked this and made no mention of this analysis.

2. *Prior Decisions Uniformly Hold that a Mere Price Reduction or Difference Does Not Constitute a Discrimination in Price.*

No court has ever suggested that a mere price reduction in one marketing area while maintaining prices in other areas is of itself "to discriminate in price" under Section 2(a). All of the territorial price cases in which violation has been found involve situations where the seller reduced his price in one market, usually below cost, to drive out the competitor and obtain a monopoly. Such a pricing activity has antitrust significance. But a mere price reduction in one market, while maintaining prices in other areas, has in and of itself no antitrust significance.

In discussing these cases (Pet. Br. 19-22), the Commission persists in its erroneous assumption that the Court of Appeals held that Section 2(a) only embraced differences in price to competing customers and did not embrace territorial price differences involving reductions below cost with an intent to eliminate competition where the effect would be felt in the seller's line of commerce. We repeat that the Court of Appeals did not so hold, for it recognized the below cost-intent to destroy competition type of possible discriminatory situation in quoting Congressman Utterback. However, the Commission did not, either in its Opinion or its brief to that Court, make any claim that AB's lower prices in St. Louis were below cost or unreasonably low for the purpose of eliminating a competitor. In short, the Commission did not try to bring itself within the scope of those cases.

However, the territorial price cases are enlightening on the question when and under what circumstances a price

reduction in a local market becomes a price discrimination within the scope of Section 2(a) and when it is not discriminatory but consistent with free competition.

The common thread through all of these cases is the purpose and intent of eliminating a competitor by pricing below cost, and thus to gain a monopoly of the market. There is not the slightest suggestion in any of them that a mere reduction in price or a mere difference in price is, standing alone, discriminatory. In each case the paramount factor was the design to eliminate a competitor.

In the first of these cases—*Porto Rican American Tobacco Co. v. American Tobacco Co.*, 30 F. 2d 234 (2d Cir. 1st 29), cert. den. 279 U. S. 858, the Court of Appeals found there was "sufficient evidence of a design and plan" to put a competitor out of business by selling substantially below cost (pp. 236-37). There was a clear anti-competitive purpose in the seller's price reduction, in line with the unequivocal legislative history.

In *E. B. Muller & Co. v. F. T. C.*, 142 F. 2d 511 (6th Cir. 1944), the Court of Appeals specifically adverted to a Commission finding that the seller sold below cost (pp. 516-518), and the evident determination to destroy the sole competitor's business. One of the seller's intercompany letters said "by continuing our efforts and putting a crimp into him wherever possible, we may ultimately curb this competition if we shall not succeed in eliminating it entirely." (p. 517)

In *Moore v. Mead's Fine Bread Co.*, 348 U. S. 115, this Court said that the destruction of competition was plainly established and the evidence ample to support a

finding of a purpose to eliminate a competitor. This Court said, p. 120:

“*This type of price cutting was held to be ‘foreign to any legitimate commercial competition’ even prior to the Robinson-Patman Act.*” (Emphasis supplied.)

The type of price cutting in *Moore* did not embrace all price reductions, but only those designed to eliminate a competitor.

In *Maryland Baking Co. v. F. T. C.*, 243 F. 2d 716 (4th Cir. 1957) there was again a demonstrated purpose to eliminate the sole competitor in the area of the price reduction, and that the price reduction “was initiated for the purpose of driving the competitor out of business.” (id. at 718; see 52 F. T. C. at 1687)

The court in *Balian Ice Cream Co. v. Arden Farms Co.*, 231 F. 2d 356 (9th Cir. 1955), cert. den. 350 U. S. 991, a suit for damages by competitors based upon a loss of volume and profit by them, pointed out the distinction between price reductions which were condemned by Section 2(a) and those which were not. It said:

“Arden did not embark upon a campaign by selling goods shipped in interstate commerce at a loss in a local area to punish or designedly cause loss to one weaker competitor. It had no design to eliminate such a competitor and put him out of business by giving guarantees against loss to its own sales customers.” (p. 368)

It specifically found, therefore, that *Porto Rico* and *Moore* did not apply and that a mere lowering of the price in one market to increase or to retain business without the anti-

competitive features of *Porto Rico* and *Moore* was not a price discrimination, regardless of any effect on competition.

In *Atlas Building Products Co. v. Diamond Block & Gravel Co.*, 269 F. 2d 950 (10th Cir. 1959), pet. for cert. filed October 13, 1959, the court also viewed the case as that of a local price reduction designed to eliminate or cripple a competitor, saying:

“Anti-trust legislation is concerned primarily with the health of the competitive process, not with the individual competitor who must sink or swim in competitive enterprise. But as a necessary incident thereto it is concerned with predatory price cutting, which has the effect of eliminating or crippling a competitor. For, surely there is no more effective means of lessening competition or creating monopolies than the debilitation of a competitor.” (p. 954)

The 10th Circuit misread, as does the Commission, the lower court's holding to mean that there can be no price discrimination except in connection with differing prices to competing purchasers. But, as we have shown, that is not the real holding of the court below.

This review of the only territorial price discrimination cases¹⁰ clearly illustrates the fine line which must be drawn in construing Section 2(a), and in deciding when differences in price or the lowering of prices become discriminatory and when they do not, so as to avoid destroying the very competition which the antitrust laws seek to protect.

¹⁰ *Samuel H. Moss, Inc. v. FTC*, 148 F. 2d 378, 155 F. 2d 1016 (2d Cir. 1945), cert. den. 326 U. S. 724, did not involve territorial price discrimination as claimed by the Commission (Pet. Br. 19). Moreover, the question of the meaning of the term “to discriminate in price” was neither briefed nor discussed in the opinion. Cases like *FTC v. Morton Salt*, 334 U. S. 37 and other cases cited by petitioner (Pet. Br. 19-20 in. 11) do not bear on this problem, since none of them raise the issue.

The suggestion in the Commission's brief (Pet. Br. 22) that the language in *Porto Rican, E. B. Muller, Moore v. Mead, Maryland Baking*, and *Atlas Building Products Co., supra*, relating to purpose or design to destroy a competitor's business, is wholly referable to the effect and not to the question of whether there was a discriminatory price, is simply a continuation of its confusion. Obviously, the purpose and design that can make a reduction in price discriminatory is something quite different from the effect which, under Section 2(a), must flow from that price discrimination. The same is true with respect to sales below cost with a purpose or design to destroy competition.

Despite the clear rationale of the adjudicated territorial price cases, as well as the legislative history, the Commission in its brief to this Court maintains that the words "to discriminate in price" must be construed in conjunction with effect on competition as though the reduction of the price in one marketing area while maintaining prices in other marketing areas is or is not a "discrimination in price", depending upon the effect on competition. This was not the Commission's position before the Court of Appeals, but it is equally fallacious.

The very ~~framework~~ of Section 2(a) shows that the discrimination in price and the effect of such discrimination are two separate statutory elements necessary to constitute a violation. The plain language itself says that there must be a "discrimination in price" before the effect of "such discrimination" becomes pertinent. It is well known that normal competitive activity often results in loss of sales by competitors. Yet that is the normal result of vigorous competition. The low-cost producer, the better salesmen, the more imaginative or better financed adver-

tising program, the prompter attention to deliveries and many other normal business events, can and do cause loss of sales by competitors. So the Commission's attempt to define "discriminate in price" by means of looking to the effect, in terms of loss of sales and equating such loss of sales with injury to competition, is fallacious because the same effects may result from normal non-price competitive activities as from lower prices. It would be ironic if it should be the rule that competition on prices, which this Court has recognized "is crystal clear * * * the rule of Congressional purpose",¹¹ should be more restricted by law than non-price forms of competition, which are often not as beneficial to the consuming public.

Judge Yankwich recognized this concept of competition in *Balian* when he stated:

"It is of the essence of competition that it must, of necessity, injure others. For, as a three-judge court once wrote:

" 'Competition is, in its very essence, a contest for trade.'

"In such contest, differences in (a) the quality of goods offered, and (b) their prices are accepted means of competition. Reputable concerns constantly advertise 'We will not be knowingly undersold.' And no case exists in which the courts have held that a price reduction, in itself, not having as its purpose the destruction of a competitor or the monopolization of trade or commerce, but made to meet competition in the field or to retain trade or custom or to gain new custom, is *illegal as such*."

¹¹ *United States v. Line Material Company*, 333 U. S. 287, 309.

Balian Ice Cream Co. v. Arden Farms Co., 104 F. Supp. 796, 801 (S. D. Calif. 1952), aff. 231 F. 2d 356 (9th Cir. 1955), cert. denied 350 U. S. 991. (Original emphasis.)

Thus the words "discriminate in price" are words of art, not to be construed out of context. They mean something other than a mere reduction in price in one area or a mere difference in price between marketing areas. Moreover, they are not dependent for interpretation on whether or not competitors have lost sales.

If the rule were that a mere difference in price constitutes a discrimination within the meaning of the statute, then, many manufacturers selling in more than one marketing area would be at the mercy of consumer reaction as to whether they would be in violation of the law. If consumers decide to buy more of their products in an area where, for any one of a number of legitimate economic reasons, the manufacturer has a lower price, then he is violating Section 2(a) under the Commission's theory of injury. The inevitable tendency would be for sellers to have uniform prices—at the highest level. It is difficult to envisage how the public interest would be served by such a result. Then Section 2(a) has become a price-fixing law inconsistent with the overall antitrust policy of protecting free competition.

Under the Commission's construction, every reduction in price in a particular market and every difference in price in different markets becomes suspect. No seller could risk reducing his price in any marketing area to increase his business, or to offset business losses elsewhere, because if he got more business in the area of the price reduction

(as did AB here) he could never be sure that the Commission would not conclude (as did the Commission here) that the effect of the price reduction "may be" to substantially lessen or injure competition with his competitors. Presumably the more business he obtained, the more vulnerable he would be. How much business could the seller safely obtain by reducing his price? The Commission in this case says that 35% of the market (increased over 12%) is too much. Would 25% of the market have been satisfactory? Would 15% be satisfactory? Of course, a seller reducing his price to get more business seldom knows whether he is going to be successful or how successful or what the ultimate effect will be on the ability of his competitors to compete.

In any realistic view of the Commission's proposition, Section 2(a) would become a compelling deterrent to, if not an actual proscription of, active price competition—and price competition is the very essence of competition itself.

Application of Territorial Price Cases to This Case

The doctrine of the territorial price cases, as a development of the legislative history, is that a discrimination in price depends upon a finding that prices have been reduced below cost or unreasonably low with the purpose and design of eliminating a competitor and creating a monopoly for the seller. The doctrine of those cases and the legislative history demonstrate, as determined by the Court of Appeals, that AB did not discriminate in price here.

Nowhere in the Opinion of the Commission is there any reference to any sales below cost or at unreasonably low

prices for the purpose or design of eliminating a competitor, as justifying the finding of discrimination. Neither the question presented to the Court of Appeals nor the Commission's brief and argument to that court rested the case on any such proposition. In fact, the Commission in its brief to the Court of Appeals said the territorial price cases were "inapposite" and AB's brief distinguished them. Nor is any such proposition comprehended in the question presented by the Commission to this Court.

While the Commission did not find that AB's price reductions were made for the purpose of destroying or eliminating any competitor in St. Louis, the Commission nevertheless asserts in its brief that the reasons for the price reductions were "to get business away from its competitors, and to punish them for refusing to increase prices when respondent did so in the fall of 1953" (Pet. Br. 6). The first ascribed reason is merely another way of stating that AB's purpose was to attempt to obtain more business which indeed it was and is certainly not predatory in any sense.

The second ascribed reason—the alleged punishment of competitors—is clearly erroneous. The Examiner assumed that AB had raised its prices in St. Louis when it raised them elsewhere in the United States in November, 1953. The Examiner found, based upon this erroneous assumption, that AB's reductions were to punish its competitors and teach them a lesson for failure to increase their prices *inside* St. Louis when AB allegedly increased its prices *inside* St. Louis in the Fall of 1953.¹²

¹² The Examiner's erroneous version of the facts was that AB raised prices in St. Louis in October 1953, at the same time it raised prices elsewhere in the United States, and that this price increase

On appeal, AB showed the Commission that the basis of the finding by the Examiner was in error since AB had not raised its prices in St. Louis and hence there was no "lesson" to be "taught" to, or "learned" by, the St. Louis competitors, as found by the Examiner. Moreover, Commission counsel before the Commission conceded that the Examiner's assumption was in error saying in answer to a question by Commissioner Secrest "In St. Louis, you see, Budweiser never did increase its prices" (R. 1514). Accordingly, the Commission Opinion (R. 49-61) completely omitted any reference to any alleged "punitive" or "retaliatory" motive.

widened the previous differential in St. Louis to 58 cents. Thus, in the Initial Decision, the Examiner stated:

"Although AB was not struck, it, too, signed a wage-increase contract, and, as a result, on October 1, 1953 it and its Milwaukee 'national beer' shipping competitors increased prices generally in varying amounts depending upon locality. The three St. Louis brewer competitors of AB—Falstaff Brewing Corporation (hereinafter referred to as Falstaff), Griesedieck Western Brewing Company (hereinafter referred to as G. W.) and Griesedieck Brothers Brewing Company (hereinafter referred to as G. B.) did not follow this raise in prices or make any increase in prices, continuing to sell in the St. Louis market (St. Louis and St. Louis County) at \$2.35 per 24, 12-oz. case of bottles, although many other regional and local brewers in other sections of the United States did so." (R. 21-22)

Again, in Paragraph 27, the Examiner stated:

"Secondly, these price reductions were ordered by its president for two admitted reasons: to get business away from its competitors, and to punish them for refusing to increase prices when AB did so in the fall of 1953. *Apparently the lesson was well taught and better learned, because those three St. Louis breweries promptly followed AB up with price increases in March 1955, and were careful to keep the price difference between them and it at less than the 33 cents whose elimination had cost them so much sales volume.*" (R. 40)

Although it is conceded in the brief (Pet. Br. 26 fn. 19) that AB objected to the Examiner's finding with respect to punishment, the forepart of the brief (Pet. Br. 3-6) is studiously phrased to create the impression that the Commission adopted the finding, even though it did not comment on it in its Opinion. It does so by describing the Opinion as "setting forth the grounds for its adoption of the *contested* aspects of the examiner's decision" (Pet. Br. 3) (emphasis added). But the punishment finding of the Examiner was "not contested" only in the sense that Commission counsel conceded before the Commission that the Examiner had been in error.¹³

Before the Court of Appeals the Commission claimed the punishment finding of the Examiner was adopted specifically in the Opinion of the Commission, citing language of the Opinion which actually referred to an entirely different matter (Commission Br. before the Court of Appeals, p. 41). Here, petitioner does not claim the punishment finding was adopted by the Commission Opinion, but seeks to validate it with a citation to a sentence in the Commission's Order (R. 48) which, properly interpreted¹⁴

¹³ Petitioner also attempts to obscure the Examiner's misunderstanding of the crucial fact which demonstrated the erroneous nature of his punishment finding, namely, his assumption that AB had raised prices in November 1953 in St. Louis when it raised elsewhere. Although petitioner states (Pet. Br. 4) that "the essential facts * * * found by the Examiner * * * are as follows:", there is no statement to show that the Examiner had found AB had not increased prices in St. Louis. Instead, this information is buried in a footnote on the following page (Pet. Br. 5 fn. 2). However, it is not stated in the footnote that the Examiner failed to make this finding but rather it is implied from the context that he did have a correct understanding of the facts.

¹⁴ The pertinent part of the Final Order (R. 48) reads: "It Is FURTHER ORDERED that the findings, conclusions, and order, as modi-

does not constitute an adoption of it. In any event, it would be incongruous to conclude that the Commission by the cryptic sentence in its Order adopted a concededly erroneous finding of the Examiner, in the face of the complete silence of its Opinion on the matter, and the concession before it of the Examiner's misunderstanding.

Thus, the Commission has never found that AB in its price reductions had any purpose other than to increase its business in St. Louis in order to offset losses being suffered elsewhere. Moreover, for all that the Commission found, it is readily apparent that AB was not selling below cost or at unreasonably low prices for the purpose or design of eliminating any competitor in the St. Louis market and obtaining a monopoly.

Consequently, the suggestion made in the Commission's brief, in a backhanded, halfhearted manner, that the facts of this case may fall within the doctrine of the territorial price discrimination cases is entirely without merit.

Nonetheless, the fact that the suggestion is made at all indicates, we submit, an agreement in principle by petitioner with our reading of the cases. Otherwise, what purpose would be served by striving to find at this late date a predatory purpose where none was found by the Commission?

fied, contained in the Initial Decision, be, and hereby are, adopted as those of the Commission". Under the proper rules of grammar the parenthetical phrase "as modified" applies to all which precedes it and not merely the preceding word as apparently contended by the Commission. If the words "as modified" had been intended to apply only to the preceding word "order" the phrase "as modified" would not have been set off from the word "order" by a comma.

3. Sound Economic Concepts Require a Distinction Between Price Reductions, Price Differences and Price Discriminations.

In the course of this territorial price case over the last five years, the Commission has taken many inconsistent positions, to evade the argument bearing down upon it at the time. In doing so, the Commission has repeatedly confused "price reductions", "price differences" and "price discriminations" and has considered them synonymous. In an antitrust context they are not synonymous, and an understanding of this point will help to clarify the problem here.

Suppose, for example, a manufacturer sells his products at \$2.50 throughout the United States, except in Washington, D. C., where he sells it for \$3.00. The manufacturer decides he would like to increase his sales in Washington, D. C., and that the way to do this is to reduce his price there. Accordingly, he lowers his price in the District of Columbia to \$2.50. As a result, his price is now uniformly \$2.50 everywhere in the United States. There has been a reduction in price in one market while prices in all other areas have been maintained; but on the Commission's own theory, there has been no discrimination, since prices are uniform. If the manufacturer's prices were originally \$2.50, \$3.00 and \$3.50 in different markets, and he reduced prices to \$2.50 in all markets, there would still be no discrimination, even though there had been non-proportionate reductions.

As another example, suppose a manufacturer has uniform prices throughout the country. He wishes to know what effect a price reduction will have on his sales. Reductions in two or three test markets will provide him with

a satisfactory answer, but he is afraid that if his sales increase, his competitors or the Commission will claim that he has injured competition and will proceed against him. He, therefore, reduces prices uniformly. There has been a reduction in price, but the prices which were uniform before are still uniform, and there can be no discrimination. If the manufacturer's test is unsuccessful and sales have not increased commensurate with the reduced price, he has foregone profits in not just selected markets, but universally, to his great detriment. On the other hand, if the manufacturer's test is successful, he has "injured competition", not in one or two markets, but in many or all markets, on the Commission's novel theory adopted in this case (see *infra*, p. 69) that one competitor's gain in sales and other competitors' losses in sales equal injury to competition.

Again, suppose that a manufacturer has uniform prices throughout the country. He wishes to increase his profits and to test the effect thereon of a price increase. Instead of raising his prices uniformly, however, he raises them in selected markets. As a result, he now has different prices in different markets, and on the assumption that a difference is a discrimination, the manufacturer has discriminated in price. But there has been no reduction in price, but rather price increases. If his sales in some markets where he has not changed prices should happen to increase then he may be subject to an action by his competitors or the Commission if the Commission's theory here is sound.

Now suppose, as here, a manufacturer traditionally in accordance with the custom in the industry has different prices in various markets in the country, some higher

and some lower for various reasons outlined above (*supra*, pp. 6-7). He chooses to reduce a price in a given market in an attempt to increase sales without similarly changing prices in all other markets. Here, the "price reduction" did not result in a "price difference", as there was already a "price difference".

Quite obviously, there is an area of overlap between a "price reduction" or "price difference" and a "price discrimination," as when a seller who has higher prices elsewhere reduces them in one market below cost or unreasonably low for the purpose or design to drive a competitor out of business as in *Porto Rican-American Tobacco Co.* and *Moore v. Mead's Fine Bread Co.* and the other territorial price cases discussed above. Nevertheless, the distinction between "price reduction", "price difference" and "price discrimination" has significance. It demonstrates that "price reductions" and "price differences" are quite distinct from "price discriminations". It emphasizes that Section 2(a) is concerned solely with "price discriminations" and that "price reductions" or "price differences" can, in territorial price cases, fall within that classification only if certain other circumstances are present.

In this connection, as the Court of Appeals recognized, it is most significant that the Commission's emphasis throughout this case has been on AB's reductions in price. Its complaint charged, in substance, that AB reduced its prices in St. Louis without lowering them elsewhere, although it noted that there were other prices elsewhere (R. 5-8). The order entered by the Commission, allegedly "to prevent disproportionate price reductions or discriminations in price" (R. 61) would prohibit AB from making

“a price *reduction* in any market unless it proportionally reduces its prices everywhere” (R. 47-48);¹⁵ and the Commission stated to the Court of Appeals:

“We are concerned only with the lowering of the prices in one area while maintaining prices in all other areas, albeit the maintained prices might be different prices.” (Opinion of the Court of Appeals, R. 1518)

Thus, the Commission in effect told the Court of Appeals that it was not concerned with differences among markets at all; it recognized that prices outside St. Louis were different from prices inside St. Louis, but considered it legally significant that such prices were maintained rather than that such prices were either higher or different than in St. Louis.

The Court of Appeals was confronted below with a completely novel claim by the Commission—one not found in any other reported territorial price case except *Balian*, where it was rejected. It is that novel Commission position which led the Court of Appeals to conclude that “in reality, the Commission is not complaining of a price discrimination between purchasers in different markets, but rather of a lowering in price in St. Louis, whether or not discriminatory” (265 F. 2d at p. 682), and that the Commission was trying to bring within Section 2(a) of the

¹⁵ The petition for certiorari has recognized that the order poses a serious question as to its possible “undue breadth,” (Pet. for Cert. 13) but sought to divorce consideration of it from its question presented. As we show *infra*, pp. 54-55, it is truly an absurd order. Since the order is a precise reflection of the Commission’s theory of the case, as stated in its opinion (R. 50, 53), the defects in the order cannot be so glibly divorced from the unsoundness of the whole theory of the case.

amended Clayton Act a concept covered, if at all, by part of Section 3 of the Robinson-Patman Act.¹⁶

Accepting the Commission's thesis, the Court of Appeals recognized that the Commission was complaining of a competitive effect which could have flowed from AB's St. Louis price reductions whether or not respondent's prices had been similarly lowered in all marketing areas.

Consequently, the Court of Appeals volunteered the further suggestion that the Commission was concerning itself with a practice covered by Section 3 of the Robinson-Patman Act, which was applicable to lower prices in individual markets whether or not lowered elsewhere, i.e., to either "lower" prices or "unreasonably low prices", each for the "purpose of destroying competition or eliminating a competitor".

In any event, we cannot perceive how the Commission advances its cause by an argument based upon the Court of Appeals' interpretation of the relationship between Section 2(a) and Section 3, when there is a clear holding that the Commission has not proved, under Section 2(a), that there has been a discrimination in price. The Court of Appeals correctly noted that a discrimination in price is more than a mere difference in price, and the Commission had not shown more than a mere difference.

¹⁶ It is perfectly clear that the last prohibition of Section 3, i.e., "to sell * * * at unreasonably low prices for the purpose of destroying competition or eliminating a competitor", is not dependent in any way upon there being a discrimination in price, either between different purchasers or between different markets, let alone a difference in price between either of them. Otherwise stated, the last prohibition of Section 3 does not embrace any concept of discrimination in price. The Court of Appeals was undoubtedly referring to this fact. The Court of Appeals, in citing *Nashville Milk Co. v. Carnation Co.*, 355 U. S. 373, recognized the overlap between Section 2(a) and Section 3, but was referring to part of Section 3 that does not overlap Section 2(a).

C

The Commission's Order Demonstrates the Invalidity of the Commission's Theory of the Case.

The Commission's order for the correction of the supposed violation of Section 2(a) by AB demonstrates graphically the basic fallacies in the theory underlying the entire proceeding.

The order provides that AB shall not reduce its price

“in any market where respondent [AB] is in competition with any other seller, unless it proportionally reduces its prices everywhere.” (R. 47)

Since AB is in competition with one or more brewers in *all* markets of the United States, the effect is to prohibit a reduction in any market unless it makes a proportionate reduction in all markets.¹⁷ The reason behind this unusual order was stated by the Commission in its Opinion:

“[I]f the order was worded so as to require respondent to maintain uniform prices this, if anything, would be contrary to market realities. Respondent's prices vary in the different markets in which it sells, resulting in differences which, with the exception of the price discriminations charged in the complaint, are not in issue in this proceeding. This order, while in effect permitting the continuation of these price differences, serves to prevent disproportionate price reductions or discriminations in prices beyond the *established difference* among markets, such as the price discriminations found to be unlawful.” (R. 60-61) (Emphasis added.)

¹⁷ Subject, of course, to certain statutory exceptions which are presumed to be implicit in every order but which have in effect been rendered unavailable to AB by the Commission in this case.

The Commission now apparently concedes that the Order has a possible undue breadth (Pet. for Cert. 13) and does "not seek to minimize" the contention that "the Commission's Order is inapt and of unwarranted breadth" (Pet. Br. 26). This concession is extremely interesting because it apparently recognizes that the Order would have anti-competitive consequences. The Order would forever preclude AB from changing any particular price in any market unless its prices were similarly changed in all markets. It would also perpetuate AB's particular price differences between markets existing as of a given date, regardless of the continuance of the economic and competitive reasons which prompted such differences originally.

If this rule is applied to all of industry, it can readily be perceived that the opportunity for price competition is completely nullified. Changes dictated by alterations in commercial demand, available supply of goods, and all other elements, of which price is the catalyst, would be impossible. These must be the reasons, then, that petitioner now expresses grave doubts about the Order.

However, the same results flow from adoption of the concept behind the Order, namely, that a mere reduction in price may, without more, constitute a discrimination in price. Both the Order and the concept back of the Order have the same basic fault, i.e., the suppression of normal price competition which has no antitrust significance.

II

THERE ARE ADDITIONAL GROUNDS FOR AFFIRMANCE WHICH SHOULD BE CONSIDERED BY THIS COURT

It is a well settled rule that in a review of judicial proceedings by this Court the decision below must be affirmed if it is correct, even though the lower Court relied upon a wrong ground or gave a wrong reason. *United States v. American Railway Express Co.*, 265 U. S. 425; *Helvering v. Gowan*, 302 U. S. 238; *Morley Construction Co. v. Maryland Casualty Co.*, 300 U. S. 185; *Ryerson v. U. S.*, 312 U. S. 405; *Letulle v. Scofield*, 308 U. S. 415, rehearing denied 309 U. S. 694.

There are two substantial factual reasons why this general rule should be applied in this case.

First, the existence of this Commission decision and the wide publicity which has been given to it is a clog on price competition until the issue is decided. The understanding in the business community is that there are risks involved in lowering prices on a selective market basis if there is any resultant increase in sales by the manufacturer lowering prices and decrease in sales by his competitors. If this particular theory of the Commission is not sound, and we submit it is not, then it is in the public interest that the business community be advised of that fact as soon as possible.

Secondly, the Commission has instituted numerous cases since the date of its decision in this case in a number of different industries, all based upon the same theory.¹⁸

¹⁸ E.g., *Matter of The Borden Co.*, FTC Dkt. No. 7474; *Matter of Foremost Dairies, Inc.*, FTC Dkt. No. 7475; *Matter of Pure Oil Co.*, FTC Dkt. No. 6640; *Matter of Sun Oil Co.*, FTC Dkt. No. 6641.

It is obvious that if the Commission's theory is unsound, it is to the interest not only of the public, but of the Commission and the Federal Courts, to know that now rather than sometime later, to conserve judicial and administrative energies which could be better utilized in other fields.¹⁹

A

There Was No Injury to Competition Within the Meaning of Section 2(a).

Section 2(a) provides that it shall be unlawful to discriminate in price "*where the effect of such discrimination*" on competition is as set forth therein. The very terms of the statute make it clear that proof of injury, or reasonable probability of injury, to competition is required before there can be a finding of violation.

In *Federal Trade Commission v. Morton Salt Co.*, 334 U. S. 37, this Court ruled that in secondary line cases—that is, cases involving alleged injury among customers of the same seller—the burden of showing statutory injury to competition was met by evidence that some customers of a seller had been charged a substantially higher price for goods of like grade and quality than other customers in competition with them.

¹⁹ The cases cited by the Commission (*O'Leary v. Broken-Pacific-Maxon*, 340 U. S. 504 and *Universal Camera Corp. v. Labor Board*, 340 U. S. 474) were based upon the proposition that the Court of Appeals had applied an incorrect principle of the scope of review to which an administrative order was entitled, and they were remanded in order to permit the Court of Appeals to apply the correct scope of review to the administrative order. However, those holdings have nothing to do with the situation posed here where it is not contended that the Court of Appeals exercised an improper review function, but rather that it improperly decided a substantive question of law.

This rule, however, is not applicable to primary-line cases—that is, cases involving competitors of the seller rather than of the buyer. In its *Statement of Policy Toward Geographic Pricing Practices*, 1 CCH, Trade Regulation Reporter ¶3601.35 (10th ed.) the Commission explained the distinction:

“[T]here are strong reasons why the concept of injury adopted by the court in the *Morton Salt* case should not be applied automatically to discriminations arising under geographic pricing systems in which purchasers paying different prices are differently located and the price differences generally diminish as the distances diminish between purchasers' locations. In these circumstances competition between purchasers paying significantly different prices may occur in quite limited areas or only along the fringes of trade territories. Seeming advantages in price may be materially affected by disadvantages of location. These and other considerations make it clear that in geographical price discriminations inferences of injury to competition drawn merely from the existence of price differences between purchasers who compete in some degree would have no sound basis. The minimum determination of injury should be based upon ascertained facts that afford substantial probability that the discriminations, if continued, will result in injury to competition.”

A significant difference between competition in the seller's, or *primary*, line of commerce and competition in the buyer's, or *secondary*, line of commerce supports the distinction drawn in the quotation above. In the seller's line, the manufacturers have within their control factors which buyers frequently cannot control—the quality of

the product, its packaging, its place of manufacture, its method of distribution, its advertising, promotional services, and so forth. The buyer, however [*e.g.*, the retailer of beer or of salt], is more limited in what he can offer as an inducement to consumers to buy from him—particularly when he sells a pre-packaged, branded product manufactured by another. He can offer personal services, convenience, sometimes credit, but he cannot change the product, its cost of production, or the other factors which are within the province of the manufacturer. The buyer does not have as many alternatives to promote his sales and compete with other retailers paying a lower price. His resale price is a primary means of competition for him, and his costs are therefore vital.

The competing seller, however, has a wide range of alternatives to meet a competitor's lower price. In fact, a manufacturer may frequently be required to lower its price in order to meet some of these other non-price changes by his competitors which he can not match, *e.g.*, a competitor's product change may help the competitor's sales, but it would not be practicable for all brewers to change their products, if they could. And advertising alone will often not overcome the competitor's advantage (R. 607-11, 624, 803, 858). It follows that a virtual *per se* violation may properly follow from a difference in prices to competing buyers, but that as to competing sellers a *per se* rule of liability would not serve to promote competition but, indeed, would severely curtail it.

1. The Requisite Injury Must Be Substantial Injury to Competition, Not Injury to a Competitor.

Analysis of the statute shows that the proof of "injury" required is centered upon "competition" and not upon competitors. It is unlawful to discriminate where the effect is "to lessen competition" or tend to create "a monopoly in any line of commerce" or to "prevent competition". This, of course, is merely another manifestation of the classic antitrust theory that competition is "a contest for trade among business rivals in which some must gain while others lose, to the ultimate benefit of the consuming public". *Report of the Attorney General's National Committee to Study the Antitrust Laws* (hereinafter *Attorney General's Report*) 164 (1955). The courts, Congress, leading economists and other authorities are in accord.

As the court stated in *Minneapolis-Honeywell Regulator Co. v. FTC*, 191 F. 2d 786, 790 (7th Cir. 1951), cert. dismissed 344 U. S. 206:

"* * * even if it [Minneapolis-Honeywell] did succeed in retaining or diverting some business, which might otherwise have gone to some of its competitors * * * it cannot be said that the effect of those practices was substantially to injure competition. And we construe the Act to require substantial, not trivial or sporadic, interference with competition to establish violation of its mandate."

The House Committee considering amendments to the Act agreed:

"We must always distinguish between injury to competition and injury to a competitor * * * we cannot

guarantee competitors against all injury. This can only be accomplished by prohibiting competition." (H. Rept. 1422, 81st Congress, 1st Session, 1949, p. 6)

The *Attorney General's Report* at p. 165 states:

"* * * criteria of competitive effect which focus exclusively on individual competitors' sales or profits rather than the health of the competitive process literally go beyond the terms of the law."

Dr. John D. Clark, member of President Truman's Council of Economic Advisers, in testimony before the House Committee on the Judiciary, stated:

"All competitive effort is burdensome and harmful to those who cannot keep pace, but if we said it must stop short before it hurts anyone we would completely abandon the policy of competition."

—Hearings, Subcommittee on Study of Monopoly Power, House Committee on the Judiciary, 81st Cong., 1st Sess., July 13, 1949, p. 113.

2. The Record Affirmatively Shows There Was No Injury Within the Meaning of Section 2(a).

Counsel in support of the complaint, before the Examiner, admitted that insofar as AB's St. Louis competitors were concerned, their business was "pretty well entrenched over a *regional area*" (R. 317), and he in effect admitted that "none of them were in failing circumstances by any means" (*ibid.*). He claimed that there was a loss of sales by these competitors to AB in St. Louis, but also admitted that the permanence of the switching from brand to brand was "not appreciable" (R. 316; see also R. 303, 233).

All of the competitors during the period of the price reductions were actively engaged in varied competitive activities: bringing out new labels (R. 351-52, 412), new packages (R. 351), and new products (*e.g., infra*, p. 66), reorganizing sales departments (Ex. 32, R. 222, 1184), changing distribution personnel (R. 412, 440), increasing advertising (R. 377), entering new markets (Ex. 33, R. 222, 1187), as well as making flexible adjustments in prices to market changes (R. 365, 454-55; Ex. 32, R. 222, 1182), special pricing promotions (R. 868, 915), and many other things.

There is nothing in the Commission's findings that contradicts any of these admitted and demonstrated facts. Instead, it has focused on the loss of sales by competitors which was admittedly temporary and "not appreciable" and has ignored all of the other factors which demonstrate continued vigorous competition in St. Louis.

This is true of both the January and June price reductions.

The January Price Reduction

At the time of the January price reduction of 25 cents a case, and for years prior thereto, the St. Louis market had been dominated by Falstaff, Griesedieck Western (hereinafter sometimes "GW") and Griesedieck Bros. (hereinafter sometimes "GB") whose combined share of the market totaled 83% (Ex. 18, R. 181, 1149). AB had only 5% to 13% of the St. Louis market, and it always ranked behind these other brewers (*ibid.*).

It was found that the first price reduction in January, 1954 was accompanied by changes in, and a stepping up of, sales activity by AB by changing its telephone solicita-

tion of orders to a route-wagon system of solicitation and delivery which converted every driver into a personal-solicitation salesman, and by a great expansion of its advertising in the St. Louis market (R. 26).

Nevertheless, despite all these changes, AB's share of the market increased from 13.1% in the last half of 1953 to only 16.5% in the first half of 1954 when this price reduction was in effect (computed from Ex. 231, R. 969, 1497-98).

Nor did competitors suffer. In each month during this reduction Falstaff's share of the market and sales volume increased over the same period of the prior year (Ex. 231, R. 969, 1497-98), and in June 1954 that company's beer sales in the St. Louis market exceeded those of any previous month in its history (Ex. 38, R. 224, 1194).

During the period of the first price reduction GB lost only 1.82% of the St. Louis market (R. 26).

GW had been continuously losing sales in St. Louis since 1948 (Ex. 18, R. 181, 1148-51). This trend continued during the period of AB's first price reduction. Its share of the St. Louis market during AB's January price reduction decreased 3.9 percentage points from the prior six months. However, this decrease was smaller than the decrease experienced by GW before AB reduced its prices in January.²⁰ And in all of these periods GW had between one-third and one-half of the total beer sales in St. Louis.

²⁰ Computed from Ex. 231 as follows:

	<i>GW Share of Market</i>	<i>Difference</i>
First half of 1954	33.0 percent	-3.93%
Second half of 1953	36.93 "	-4.14%
First half of 1953	41.07 "	

Thus, there is no evidence, let alone "substantial evidence", to support a finding of injury from the January price reduction of 25 cents per case.

The June Price Reduction

During this second price reduction the competitive effectiveness of the other St. Louis brewers was not injured. The competitors in St. Louis—AB, Falstaff, GB and GW—had distribution through almost all the licensed retailers in St. Louis prior to the price reduction. No competitor of AB lost any retailer customer (R. 233). Every consumer, therefore, still had the same opportunity to buy any of those brands that he had before—and at the same price as previously since none of them changed its prices (R. 99, 100, 201, 211, 230).

Moreover, the two St. Louis competitors, on which information is available, continued to make profits (Ex. 32-Ex. 36, R. 222, 1181-91, R. 1219). "None of them were in failing circumstances by any means" (R. 317).

Total sales in the market increased by 800,000 cases over the corresponding period of the preceding year. The out-of-town brewers increased their sales in St. Louis from 448,134 cases to 490,088 cases (R. 55).

It is quite clear that during the period of the second, or June price reduction, from the end of June 1954 to the end of February 1955, AB's three principal St. Louis competitors sold less beer in St. Louis than they had in the corresponding period of the previous year. It is this fact upon which the Commission apparently bases its whole case. However, it is equally true that even if all the sales losses of the competitors could be attributed to AB's price

reduction—and they cannot be—then the maximum loss any one would have suffered as a result thereof would be less than 7% of its annual sales as in the case of GW.²¹ GB's maximum loss would only be about 4%, and Falstaff's only about one-tenth of one percent! These "losses" were regained in substance when AB's price reductions, admittedly temporary, were terminated (R. 233, 303, 316).

Moreover, despite the price reductions in St. Louis, and its increase in sales there, AB's total sales dropped 13% in 1954. Far from other markets "subsidizing" St. Louis, St. Louis was supporting other areas.

In any event, the temporary sales losses in St. Louis fail to present a true picture of the state of competition or even a true picture of the competitors and their activities.

The Falstaff Brewing Corporation, owner of eight breweries, rose from twelfth in national sales in 1939, to sixth and fourth, in 1954 and 1955 respectively (Ex. 230, R. 969, 1493-96), despite the fact that Falstaff beer is sold in an area which includes only 36% of the nation's population (Ex. 32, R. 222, 1185; R. 146). While Falstaff's sales total *increased* in 1954 by 13%, AB's total sales *decreased* 13% (Ex. 230, R. 969, 1493-94).

Between July 1954, the first full month of AB's second price reduction, and February 1955, Falstaff's share of the St. Louis market rose from over 25% to about 30%. Its

²¹ No brewer sold all or even the majority of its beer in St. Louis only, and that was the only area of the price reduction in issue (Complaint, R. 6-7). GW with 28% of its total sales in St. Louis (R. 242, 56-57; R. 101) was the seller most dependent on sales in that market. In the eight months of AB's second price reduction, GW's St. Louis sales were off less than 33%. Simple arithmetic—28% of its volume multiplied by 33% reduction in sales multiplied by $\frac{2}{3}$ of a year (the length of the reduction)—demonstrates that the maximum total loss of GW's sales is only 7%. Figures for other companies are computed similarly (R. 210, 199, 56-57).

gain of 4.5% of that market compares with AB's loss of 4% of the market during the same period. By January 1956 Falstaff controlled over 43% of the St. Louis market—a degree of acceptance that AB was never able to achieve even when both Budweiser and Falstaff were sold at the same price (Ex. 231, R. 969, 1497).

Any "loss" in St. Louis amounted to only one-tenth of 1% of Falstaff's annual sales, and its profits on net sales were equal to or greater than in its prior years (Ex. 32-Ex. 36, R. 222, 1181-91). Its net profits before taxes during 1954, when the alleged discriminations were taking place, were \$6,787,000 (R. 1510).

With respect to Griesedieck Bros. Brewing Company, the Hearing Examiner stated:

"respondent [AB] has shown that * * * in March 1954, G. B. replaced the beer it had theretofore been selling with an entirely new product which was badly named, poorly merchandised, bitter in taste and 'wild'—that is, with an unstabilized air content * * * that this new beer was disliked by the consumer, with the result that consumer sales thereof dropped sharply during the latter part of 1954. * * *" (R. 34)

A comparison of GB sales inside St. Louis with its sales outside St. Louis over a period of time, including the period of the price reductions, demonstrates that its losses in St. Louis were not due to AB's price reductions but to its own product difficulty. Any losses outside St. Louis necessarily were due to reasons other than the AB price reductions—particularly since all of its beer sold both in and outside St. Louis came from GB's one and only brewery. Appendix 3, comparing GB's sales inside and outside St. Louis, demonstrates: (1) that GB had been

losing sales both inside St. Louis and outside St. Louis for a period of years, even before AB reduced its prices in St. Louis; (2) that during all these periods GB had been losing more heavily in St. Louis than outside St. Louis; (3) that during the period of the June price reduction—the period when there was also a product failure—GB's rate of loss increased both in St. Louis and outside St. Louis, but that the losses outside St. Louis quintupled, while in St. Louis they only tripled.

From 1947, GW dominated the St. Louis market. Its annual share of the market ranged from a high of 47.6% in 1949 to a low of 38.9% in 1953. During that period there were times when GW's sales were more than 50% of the total sales in the market (Ex. 18, R. 181, 1150).

Prior to the sale of its brewing assets to Carling in October 1954, GW strengthened its cash position at the expense of its brewing business. Its expenditures for advertising in St. Louis decreased [from \$337,000 in 1953 to \$237,000 in 1954], while all other St. Louis competitors' advertising either remained at the same levels or increased (Ex. 119, R. 613, 1363-66). Although the corporation's cash and total current assets increased each year from 1948 to 1953, GW's management permitted its production facilities, the net fixed assets, to decrease every year during that period (Ex. 43, 44, 45, 49, 50, 51, R. 248-254, 1199-1212, 1226-39, all summarized at Rec. 174—not printed). And the ratio of fixed assets to total assets declined substantially from 1948 to 1953 (*ibid.*). By 1954 GW was in a very good quick cash position. GW had continued to earn profits even during both of AB's price reductions; its net profits before taxes in the first eight months of 1954 were \$782,000 (R. 1512). It was, as it admitted at

the time, "a most successful company" (Ex. 39, R. 246, 1195). In 1954, under the management of an investment banker (Ex. 46, R. 249, 1221), it sold its production assets and submitted to a stockholder vote (Ex. 46, R. 249, 1213, 1214, 1221) the question of whether it should become an investment company using the funds thus made available.

GW sold "all its brewing assets" to Carling Brewing Company in the middle of the second AB price reduction (Ex. 39-40, R. 246, 1195-97; Ex. 46, R. 249, 1213). The net equity available to common shareholders of GW thereafter was higher than any level which the stock had reached in the prior two years (Ex. 46, R. 249, 1213, 1218, 1223). Carling paid over \$2,000,000 for goodwill, or more than one-fifth of the real net worth (Ex. 46, R. 249, 1217-18; Rec. 800-02—not printed). The value paid for goodwill by Carling is a concrete expression of the continued profitability and competitive effectiveness of GW.

As soon as Carling's experienced management took over the marketing of GW's Stag Brand, GW's position in the market showed marked improvement, even during the balance of the period of AB's second price reduction. Thus, in January 1955, its rate of loss was halved and its percentage of market increased about five percentage points. In February 1955 it showed an increase in sales over the prior year (Ex. 231, R. 969, 1497). By 1956 its beer sales in St. Louis were *above* the sales which could have been reasonably expected, based upon its trend in the years prior to AB's price reduction (Ex. 234, R. 969, 1507; R. 593-95, 968).

AB never was able to reach the 43% market share that Falstaff has obtained, even when Budweiser was selling at the same price as Falstaff. It has never attained the high

market share that GW held after 1947 (Ex. 18, R. 181, 1148; Ex. 231, R. 969, 1497). AB's national sales decreased 13% in 1954 despite both price reductions (Ex. 230, R. 969, 1493, see also Ex. 118, R. 604, 1359). It is not a dominant seller in any market. The finding of AB's tendency to monopolize the St. Louis market, or any other market, on these facts is completely far-fetched.

3. *Temporary Diversion of Sales of Some Competitors Does Not Constitute Substantial Injury to Competition Within the Meaning of Section 2(a).*

The sole basis for the Commission's conclusion that AB's price reduction injured competition rests on its findings that competitors temporarily lost sales to AB. In this respect we have shown that Fa'ststaff lost substantially no sales (only 1/10 of 1%), and that AB's price reduction did not cause GB's or GW's loss of sales, but that product failure and management accounted for the 4% and 7% losses respectively of those companies in St. Louis. Moreover, it has been shown that during the same period AB lost 13% of its annual sales despite its price reduction in St. Louis.

Still more significant, diversion of sales is the very essence of competition. In no previous territorial price case in which an order or judgment was entered against a defendant has this been the basis for the order. In no previous territorial price case in which the charge has been dismissed has a competitor's losses prevented a dismissal.

"Competition is a contest between sellers for the business of a buyer. In such a contest one seller gets the order while other sellers lose the order. That is

competition. The seller who did not get the order may feel injured, but that does not mean that competition has been injured. In any competitive economy we cannot avoid injury to some of the competitors. *The law does not, and under the free enterprise system it cannot, guarantee businessmen against loss. That business men lose money or even go bankrupt does not necessarily mean that competition has been injured.* 'Competition,' Mr. Justice Holmes observed, 'is worth what it costs'.

"We must always distinguish between injury to competition and injury to a competitor. To promote and protect competition is the primary function of the antitrust laws. However, we cannot *guarantee competitors against all injury*. This can only be accomplished by *prohibiting competition*."

H. Rept. No. 1422, 81st Cong., 1st Sess. 1949, p. 5, quoted with approval in part by Yankwich, J. in *Balian Ice Cream Co. v. Arden Farms Co.*, 104 F. Supp. 796, 801 (S. D. Calif. 1952), *aff'd* 231 F. 2d 356 (9th Cir. 1955), cert. den. 350 U. S. 991 (Emphasis added by the Court.)

As stated by the Commission in its long-standing Policy Toward Geographic Pricing Practices, 1 CCH Trade Reg. Reporter ¶ 3601.31 (10th Ed.):

"Injury to competition which one seller imposes upon another raises few problems, since it is a conception which can be traced back to the beginnings of the antitrust laws. It usually arises when the discriminating seller quotes low prices to the customers of his competitors in such a way that he jeopardizes the continuance of effective competition by these competitors and thus tends to acquire a monopoly of the commodity sold. Except where such a tendency toward

monopoly appears, *the Commission does not regard an effort to get business from a competitor by sporadic price reductions as illegally injurious to that competitor.*" (Emphasis added.)

In none of the territorial price cases was a violation found solely on the basis of a loss of sales by a competitor. Rather, there were other factors showing a diminution in the competitive effectiveness of those competitors before a finding of statutory injury to competition was made. Such other factors bearing on continued competitive effectiveness were present in all cases where a charge of territorial price discrimination under Section 2(a) was sustained. A review of these cases, *Porto Rican American Tobacco Co. v. American Tobacco Co.*, 30 F. 2d 234 (2d Cir. 1929); *E. B. Muller & Co. v. FTC*, 142 F. 2d 511 (6th Cir. 1944); *Moore v. Mead's Fine Bread Co.*, 348 U. S. 115 (1954); *Maryland Baking Company v. FTC*, 243 F. 2d 716 (1957); and *Atlas Building Products Company v. Diamond Black & Gravel Company*, 269 F. 2d 950 (10th Cir. 1959), reveals that each of them contains one or more of the following elements bearing upon the vigor of competition:

1. There was a single competitor in the area of the price reduction whose sales were confined to that area, and who was, therefore, highly vulnerable. Elimination or crippling of such a competitor perforce injured competition.

2. The price was reduced to a point so low that the sole competitor in the area could not effectively compete, except in one of the cases, and in that one, *Porto Rican*, the discriminator's prices were found to be below cost.

3. The discrimination was continued for a period sufficient to cause destruction of the sole competitor or to seriously impair the competitive effectiveness of that sole competitor.

4. The discrimination resulted in the single competitor losing its channel of distribution, i.e. it lost not just sales, but outlets through which it could make sales—wholesalers.

Not even one of these factors, or any equivalent of them was present in *Balian Ice Cream Co. v. Arden Farms Co.*, 231 F. 2d 356 (9th Cir. 1955), cert. den. 350 U. S. 991, nor is any one present in the instant case. AB does not contend that the above four factors are the *sine qua non* for a finding of injury to competition. AB submits, however, that when all competitors are and have been completely active, competing vigorously and profitably, some such factors in addition to mere loss of sales are required to establish injury to competition under Section 2(a). Otherwise, the injury does not result from the discrimination, as the statute requires, but from the lower price—which would be equally true if prices were uniformly low and thus non-discriminatory.

In the present case, AB was faced not with the competition of one small competitor but rather with the competition of three substantial competitors each of whose sales in St. Louis were up to three and four times greater than AB's prior to the price reductions. Indeed, counsel in support of the complaint conceded that "this is not the case of a big dog in a particular locality trying to gobble up one or two small local dogs" (R. 316), and that "the St. Louis competitors" of AB were "firmly entrenched in that area" (R. 317, 1509). Nor were they

dependent upon St. Louis sales for their profit, since all of them sold in no less than 13 states. Moreover, Falstaff, the principal competitor whose price AB was meeting, was the sixth largest brewer in the nation and became fourth largest in 1955 *despite* AB's price reductions.

In view of the above, AB submits that no injury to competition within the meaning of Section 2(a) resulted, or could reasonably be expected to result, from its temporary price reductions in St. Louis.

B

AB Was Meeting an Equally Low Price of a Competitor in Good Faith Within the Meaning of the Absolute Defense in Section 2(b) When It, While Seeking Means to Offset a Widespread Loss of Sales, Temporarily Reduced Its Prices in Its Home Market to Prices Which Were Always Higher Than or Equal to Those of Its Principal Competitor, Whose Sales Were Greater Than AB's in the Many Markets in Which They Competed.

It is an absolute defense to a charge of illegal price discrimination that the alleged discriminator "met the equally low price of a competitor in good faith. *Standard Oil Co. v. FTC*, 340 U. S. 231; 233 F. 2d 649 (7th Cir. 1956), *aff'd* 355 U. S. 396. Being an "absolute defense", the defense is available even if we assume, *arguendo*, there was injury to competition. *Ibid.* Hereafter this defense shall be referred to as the meeting competition defense.

1. *The Meeting Competition Defense Is Available Against a Charge of Territorial Price Discrimination.*

In providing for the meeting competition defense, Section 2(b) draws no distinction between the different types of price discriminations, either territorial or among particular individual customers. It follows that the meeting competition defense is available against *any* charge of price discrimination under the Act, including alleged territorial discrimination. In affirming the absolute nature of the defense, this Court, in the *Standard Oil* case, did not, either explicitly or by the most tenuous inference, suggest that the defense would be any less absolute or less available in a territorial case charging primary-line injury than in a secondary-line case.

Under these circumstances the only question regarding the availability of this defense in territorial cases is: may a seller meet the equally low price of its competitors where it is able to do so, or is it at the mercy of its competitors in the selection of the territory? To state the problem is really to answer it. If a seller is not able to reduce its price to meet a competitor's price in the only territory where it is able, then, in order to reduce prices in that single territory it would have to reduce them everywhere. The same reasoning which this Court applied in the *Standard Oil* case to a secondary-line problem is equally applicable to this primary-line situation:

“There is nothing to show a congressional purpose, in such a situation, to compel the seller to choose only between ruinously cutting its prices to all its customers to match the price offered to one, or refusing to meet the competition and then ruinously raising

its price to its remaining customers to cover increased unit costs."—340 U. S. 231, 250

The Commission has placed itself in an anomalous position. It argues in its Opinion:

"The emphasis of Section 2(b) is on individual competitive situations rather than upon a general system of competition. *F. T. C. v. A. E. Staley Mfg. Co.*, 324 U. S. 746. If respondent was faced with an individual competitive situation which it had to meet, it clearly was not in the St. Louis area. However more advantageous it may have been for respondent to lower its prices there, by so doing it has no defense under 2(b)." (R. 58)

Thus, the Commission would emasculate the absolute statutory defense by insisting that AB could not meet competition in a market where it was not then losing business, even though it was losing business at the same time to the same competitor in other markets. It so held notwithstanding its recognition that it was "more advantageous" for AB to meet the competitive price in St. Louis than elsewhere. In fact, of course, due to the freight rate problem and others, it was not only more advantageous for AB to do so in St. Louis, but it was the only possible place in which it could do so.

This anomaly reflects the futility of taking language from a case involving one set of facts and attempting to apply it to another. True, this Court indicated in the *Staley* case that the meeting competition defense should be allowed in "individual competitive situations". However, *Staley* was a price-fixing case where the "individual competitive situation" doctrine forestalled the use of the meeting com-

petition defense as a cover for a collusive price-fixing mechanism. See *Standard Oil Company v. FTC*, 233 F. 2d 649, 653 (7th Cir. 1956), aff'd 355 U. S. 396.

There is no remote equivalence between AB's price reductions in St. Louis and the systematic price *matching of both lower and high prices* which was disqualified by this Court in *Staley*. The facts in this case amply—and dramatically—underscore the good faith efforts of AB to cope with the particular grave competitive situation created by Falstaff.

As this record demonstrates, from time to time and from place to place over the course of the past twenty years, Budweiser has generally sold at a price somewhat higher than prices of other leading beers. The competitive effects of such differences between Budweiser and other brands were accentuated subsequent to October 1953 when new wage contracts were negotiated throughout the industry. Many brewers raised prices; some brewers absorbed the increased costs. AB raised its prices slightly in all markets except those in Missouri and Wisconsin. Falstaff elected to absorb the increased costs. AB sales dropped drastically (R. 22). Sales of the regional brewers, such as Falstaff which ^{also} competes with AB in substantially all of the states served by AB's St. Louis brewery, increased markedly. The increased volume permitted Falstaff to expand its productive facilities by buying breweries strategically located, thereby increasing its competitive advantages even more.

Rather than adopt the alternative of raising its price once again, a course already proved disastrous in its effect on sales, AB chose to meet the price competition of Falstaff for consumer sales. St. Louis, with its great sales potential, afforded AB the greatest natural advantage.

When counsel in support of the complaint asked AB's president why AB did not reduce its price in Texas where AB was experiencing a drastic loss of sales to Falstaff, he testified:

"And if I could have made our reduction in Texas instead of St. Louis, I think we would have done it without any argument.

"Our principal reason for not making it in Texas was because Falstaff again has a plant in New Orleans which is located, as you well know, very close to Texas. We have freight rates out of St. Louis that are higher, and even today it would be a little bit more competitive because Falstaff has just acquired two more plants in the State of Texas, and they lead by a good majority in the State of Texas today." (R. 930; see also R. 287-88, 1172)

The competition of Falstaff dramatizes the only type of individual competitive situation which realistically would serve as the basis for the absolute meeting competition defense in a territorial price case.

2. When Selling Budweiser at Prices Which Were Always Higher Than or Equal to the Price of Falstaff and the Other Beers, AB Was Meeting an "Equally Low Price" of a Competitor Within the Meaning of Section 2(b).

After AB's price reduction of June 21, 1954, all beers were sold in St. Louis for \$2.35 per case. As the Complaint alleges, AB's price then "exactly matched" the price of its competitors (R. 5).

Despite the fact that AB's price of \$2.35 was the same as Falstaff's, the Commission ruled that the two AB price reductions were not meeting an "equally low price" of a

competitor within the meaning of the statute (R. 40). The Commission stated that AB's "reduction from the premium price *to match the prices* of the regional beers on the market was not a meeting of competition. The effect was to undercut competition." (R. 59).

The Commission has, in effect, amended Section 2(b) to make it read "an equally low price for goods of equal public acceptance." Such an interpretation is incompatible with the clear words of the statute. It is also contrary to the legislative history of the Act.

The House Judiciary Committee, which drafted the clause that became Section 2(b), explained it as follows:

"This proviso represents a contraction of an exemption now contained in section 2 of the Clayton Act which permits discriminations without limit where made in good faith to meet competition. It should be noted that while the seller is permitted to meet local competition, it does not permit him to cut local prices until his competitor has first offered lower prices, and then he can go no further than to meet those prices. * * * *In other words, the proviso permits the seller to meet the price actually previously offered by a local competitor*"—H. Rep. 2287, 74th Cong., 2d Sess. 16, cited in *Standard Oil Co. v. FTC*, 340 U. S. 231, 248 (1951). (Emphasis added.)

Mr. Patman, one of the co-authors of the Act, gave further content to the statutory phrase "equally low price" as follows:

"The phrase 'equally low price' means the corporate chain will have the right to compete with the local merchants. They may meet competition, which is all right, but they cannot cut down the price below cost for the purpose of destroying the local man.

"It means they may meet competition, but not cut down the price below cost. It means on equally low price but not below that. It permits competition, but it does not permit them to cut the price below cost in order to destroy their competitors."—80 Cong. Rec. 8235

The Commission has presented this theory of "superior public acceptance" to the courts previously. *Standard Oil Co. v. FTC*, 233 F. 2d 649 (7th Cir. 1956) aff'd 355 U. S. 396. The Commission had found as follows, and ruled against the respondent:

"The offer of Red Indian Oil Company was on Fleet Wing gasoline which, as has been previously found, was *not a major brand* of gasoline. In the trade sense, it was an offbrand and *generally sold at prices lower than major brands* of gasoline.

"There was no evidence as to whether or not Fleet Wing gasoline was of comparable grade or quality with respondent's gasoline. Regardless of this, in the retail distribution of gasoline *public acceptance rather than chemical analysis of the product is the important competitive factor*. Certain widely distributed and well advertised brands of gasoline have come to be known as major brands, and other brands are known as off brands. In the Detroit metropolitan area, as elsewhere, *off-brand or local-brand gasoline sells at lower prices than major brands, and distributors of off-brands gasoline find it necessary to undersell major brands in order to secure some share of the market.*" (49 F. T. C. 923, 952 (1953). (Emphasis added.)

The Court of Appeals set aside the order of the Commission. In doing so, it implicitly denied the validity of the "superior public acceptance" theory. The meeting competition defense was upheld.

In taking the approach that it has in this case, the Commission attempts to invoke the *results* of the price reduction to defeat the meeting competition defense:

“[R]espondent’s [AB’s] reduction from the premium price to match the price of the regional beers on the market was not a meeting of competition. The effect was to undercut competition. *The huge gains which respondent [AB] made at the lower prices testifies to that fact.*” (R. 59)

It is well established that the availability of the meeting competition defense cannot be made to rest upon the results of the alleged discrimination, however. *Standard Oil Co. v. FTC*, 340 U. S. 231.

In 1953, prior to the price reductions of AB in St. Louis, Falstaff’s packaged beer sales exceeded the sales of Budweiser by 135% and constituted 29.4% of the total St. Louis market. For the year 1954 Falstaff sold 29.6% of the market, in 1955 37.3%, and in January 1956 it was approximately 43% (Ex. 231, R. 969, 1497). While AB and Falstaff were selling at the same price their sales were at times approximately comparable (*Ibid.*).

Under these circumstances it is impossible as a matter of fact to claim that AB was undercutting its competitors.

3. In Meeting the Exact Price of Its Competitor in Only One Location, Where It Could Increase Sales, Instead of All or Other Locations, While Testing Other Means To Offset Its Loss of Sales, AB Was Meeting Competition in Good Faith Within the Meaning of the Statute.

St. Louis was the only market in which AB could reduce prices where the results could be effective in terms of

increased sales which were urgently necessary. However, the Commission held:

“The justification provided by Section 2(b) for discrimination in price contrary to the provision of Section 2(a) is essentially a right of self-defense against competitive price attacks.”²²

Such a ruling ignores the fact that AB had been losing sales over a wide area and was merely attempting to offset these losses. That ruling, grounded in the competitive limitations of secondary line cases, has no validity in a territorial case such as this, where distribution by all competitors in any given market is through common customers to whom all competitors sell.

While *Standard Oil* speaks in terms of meeting a competitor's lower price in order to retain existing customers, it is essential to recognize that the Court there spoke in the context of the facts of *that* case. The *only* question of meeting competition in *Standard Oil* arose in connection with “price raids” by competitors bent on wresting away four of Standard Oil's customers. Standard's lower price was offered to “retain” those customers. In holding the meeting competition defense available, the Court's decision was logically responsive to the limited facts—the only issue—before it. *Standard Oil Co. v. Brown*, 238 F. 2d 54 (5th Cir. 1956). The Court did not hold that retention of existing customers was the *only* legitimate defensive ground for meeting a competitor's lower prices.

²² “None of the competitors constituted any threat at that time to respondent's [AB's] relative position in the St. Louis market.” —Commission opinion (R. 58).

AB's relative position in the St. Louis market was last place, and it had been for years (Ex. 18, R. 181, 1148).

To suggest that the meeting competition defense is available only in the factual setting in which it arose in *Standard Oil* is to flout logic, business realities and ordinary statutory construction. Thus, the *Attorney General's Report*, at 184, stated:

"Standard Oil does not confine the 'good faith' proviso solely to *defensive* reductions to retain an *existing* customer. The Supreme Court in that opinion merely employed language describing the case at bar; it did not promulgate a general doctrine surrounding each seller with a protected circle of customers which may be exploited without fear of a rival's price attacks. Such a limitation in any event would not be in keeping with elementary principles of competition, and would in fact foster tight and rigid commercial relationships by insulating them from market forces." (Original emphasis.)

Any other interpretation would be unreasonable. A monopolist would be able to reduce its prices to retain all its custom; but a new entrant in a field would be unable to reduce its prices to gain a foothold. Like the "individual competitive situation" maxim, the "aggressive-defensive" distinction must be reasonably applied in this new factual situation.

Practically all retailers in St. Louis handle Budweiser, Falstaff, and other beers (R. 233; Ex. 202 K, R. 967, 1513). If the only time AB could meet the competition of Falstaff was to retain the business of a particular retailer, the defense would never be available. There is nothing in the statute to indicate that the absolute defense is not to be available when all sellers have common customers.

As pointed out above, increasing sales is the very essence of competition. Likewise, it is the essence of meeting competition. As the Commission stated in a memorandum dated June 16, 1953, to the Senate Judiciary Committee:

“The only reason a seller would ever reduce his price in good faith to meet the equally low price of a competitor is either to *obtain the business* of the customer or to retain him as a customer * * *”

In *Balian Ice Cream Co. v. Arden Farms Co.*, 104 F. Supp. 796, 801 (S. D. Calif. 1952), aff'd 231 F. 2d 356 (9th Cir. 1955), cert. den. 350 U. S. 991, Chief Judge Yankwich stated that the precise issue in that case was whether a seller could lower its price when sales were diminishing “in an endeavor to keep their customers *or gain others*.” The court held that Arden, in reducing prices in a geographic area for such a purpose, was excused under the meeting competition defense.

In short, AB met the equally low price of competitors in good faith, in the individual competitive situation presented by the facts of this primary line case. The absolute defense should be sustained.

CONCLUSION

For the foregoing reasons, the judgment of the Court of Appeals should be affirmed.

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APPENDIX 1

Spread Between Price Levels in the Largest Market for Budweiser in Each of 49 States and the District of Columbia

(in dollars and cents per case of 24 12 ounce returnable bottles)

(Source: Ex. 180 through 228D)

Amount of Difference Between Successive Price Levels

Market	Between					
	1 & 2	2 & 3	3 & 4	4 & 5	5 & 6	6 & 7
Honolulu, Hawaii	.08	.35	.50	.10	.40	—
Cheyenne, Wyo. ¹	.40	.10	.06	.19	—	—
Seattle, Wash. ²	.15	.82	.04	—	—	—
Richmond, Va.	.55	.65	—	—	—	—
Wilmington, Vt. ³	.85	.15	.05	.10	—	—
Salt Lake City, Utah ⁴	.05	.28	1.42	—	—	—
El Paso, Tex.	.15	.60	.10	—	—	—
Memphis, Tenn.	.15	.25	.67	—	—	—
San Francisco, Calif. ⁵	—	—	—	—	—	—
San Diego, S. D. ⁵	.05	.05	.05	.05	.45	—
Charleston, S. C.	1.05	—	—	—	—	—
Madison, Wisc. ⁶	.06	.83	—	—	—	—
Bozeman, W. Va.	1.10	—	—	—	—	—
Cambridge, Mass. ⁷	.04	.06	.20	.42	.10	.04
Philadelphia, Pa. ⁸	.10	.15	.25	.70	.20	—
Portland, Ore. ⁹	.84	.10	—	—	—	—
Lawton, Okla.	.69	.44	—	—	—	—
Cleveland, Ohio ¹⁰	1.10	—	—	—	—	—
Sioux Falls, S. Dak.	.10	.15	.02	—	—	—
Washington, N. C. ¹¹	.45	.56	—	—	—	—
New York, N. Y. ¹²	.10	.28	.42	—	—	—
Albuquerque, N. M. ¹³	.02	.09	.03	.16	.31	.24
San Jose, N. J. ¹⁴	.01	.03	.13	.12	.42	.20
Birmingham, Ala.	.90	—	—	—	—	—
Phoenix, Ariz. ¹⁵	.01	.80	—	—	—	—
Little Rock, Ark.	.70	—	—	—	—	—
Los Angeles, Calif. ¹⁶	.71	.01	.03	.09	.27	.01
Denver, Colo. ¹⁷	.30	.22	.29	.34	—	—
Hartford, Conn.	.80	.11	.03	.04	.06	.14
Philadelphia, Del.	.69	.45	—	—	—	—
District of Columbia	1.00	.06	—	—	—	—
Miami, Fla.	.50	.05	.90	—	—	—
Atlanta, Ga.	.90	—	—	—	—	—
Bozeman, Idaho ¹⁸	.67	.03	—	—	—	—
Chicago (Logan), Ill. ¹⁹	.02	.10	.01	.02	.19	.08
Chicago, Ind.	.25	.65	—	—	—	—

Appendix 1

Market	Between 1 & 2	Between 2 & 3	Between 3 & 4	Between 4 & 5	Between 5 & 6	Between 6 & 7
Des Moines, Iowa	.08	.07	.30	—	—	—
Wichita, Kan. ²⁰	.10	.10	.50	.15	—	—
Louisville, Ky.	.97	—	—	—	—	—
New Orleans, La. ²¹	.50	.70	—	—	—	—
Waterville, Me.	.23	.28	.09	.11	.07	.01
Baltimore, Md.	.04	—	—	—	—	—
Boston, Mass. ²²	.17	.15	.17	.09	.09	.24
Detroit, Mich.	1.05	.15	—	—	—	—
St. Paul, Minn. ²³	.02	.27	.02	.09	.03	.05
Columbus, Miss.	.82	—	—	—	—	—
St. Louis, Mo.	.30	—	—	—	—	—
Billings, Mont.	.10	.95	—	—	—	—
Omaha, Neb. ²⁴	.10	.20	.35	.15	.10	—
Las Vegas, Nev. ²⁵	.30	.19	.24	—	—	—
Concord, N. H. ²⁶	.14	.39	.17	.06	.20	.15
Spread						
Avge.:	.41	.30	.26	.17	.21	.12
High:	1.10	.95	1.42	.70	.45	.24
Percentiles						
25th:	.10	.10	.015	.09	.09	.04
50th:	.275	.195	.17	.105	.195	.15
75th:	.71	.445	.325	.16	.31	.24
No. of Markets	50	40	27	18	14	10

1. The price of Coors is adjusted to account for the 11 oz. bottle.
2. The prices of Hamm's, Olympia, Rainier, Heidelberg, and Lucky Lager are adjusted to account for the 11 oz. bottle.
3. Prices of Ruppert, Schaefer, and Ballantine are based on a quantity minimum; quantities not stated. Other prices are based on a flat rate for all quantities.
4. There is a quantity discount applicable to all beers. The price of Coors is adjusted to account for the 11 oz. bottle and the price of Budweiser is adjusted to account for the 10 oz. bottle and to facilitate comparison to the standard 12 oz. bottle.
5. Price for Schlitz based on a quantity minimum of 100 cases, price for Falstaff based on a quantity minimum of 25 cases. All others priced at a flat maximum.
6. All prices based on a quantity minimum of 100 cases.
7. All prices based on a quantity minimum. Quantity not stated.
8. Prices are all based on quantity minimum as follows: Budweiser, Schlitz, Pilsener, Ballantine, Scheidt, Neuweiler, Schmidt, Ortlieb, Esslinger, Gretz at 100 cases; Schlitz Pils and Schaefer at 25 cases.

Appendix 1

9. The prices of Hamms, Burgermeister, Goebel, Blatz, Lucky Lager, Rainier, Heidelberg, and Olympia are adjusted to account for the 11 oz. bottle. Since Schlitz is distributed in both 11 oz. and 12 oz. bottles, the 11 oz. bottle price has been disregarded.
10. The pricing survey used for Cleveland is from the firm which has the largest number of outlets.
11. Price for Regent only is based on a quantity minimum.
12. Prices are based on a quantity minimum as follows: Budweiser, Schlitz, and Miller 100 cases. Pabst 200 cases. All others are priced at a flat rate. The New York City prices are a combination of Bronx and Brooklyn.
13. The price of Coors is adjusted to account for the 11 oz. bottle.
14. Prices of following are based on a quantity minimum as indicated: Budweiser, Schlitz, Miller, Hensler at 100 cases, Pabst at 200 cases, Blatz at 25, and Fox Head at 10.
15. The price of Coors is adjusted to account for the 11 oz. bottle.
16. The prices of both Coors and Olympia are adjusted to account for the 11 oz. bottle and to facilitate comparison to the 12 oz. beers.
17. The price level of Falstaff beer is based on the quantity minimum: 25/\$2.84. The price of Coors is adjusted to account for the 11 oz. bottle.
18. The prices of Olympia, Rainier, and Heidelberg are adjusted to account for the 11 oz. bottle. Since Budweiser is also sold in the 12 oz. bottle, the price of the 11 oz. bottle is disregarded.
19. The price level of all beers is based upon a quantity minimum: Budweiser 25/\$3.30; Hamms 25/\$3.27; Pabst 25/\$3.29; Old Style Lager 25/\$3.08; Drewry's 100/\$2.57; Prager 100/\$2.57; Meister Brau 100 \$2.58; Fox De Luxe 50/\$2.58; and Tavern Pale 30/\$2.56. Where there are no quantity minimums the flat maximum price is used.
20. A cash rebate applicable to all beers is disregarded. The price of Coors is adjusted to account for the 11 oz. bottle.
21. The Goebel figures are based on the 12 oz. bottle beer only.
22. The price survey for Boston is from a Cambridge, Mass. firm.
Prices are based on a quantity minimum as follows: Dawson Beer and Harvard Ale at 25 cases; Hampden Ale at 100 cases. All other prices are a flat rate since no quantity minimum price is stated.
23. The prices of Schlitz, Pabst, Hamms, and Pfeiffers are based on the quantity minimum price. Quantity not stated.
24. Prices of Country Club are based on a quantity minimum of 25. Prices of Metz are based on a quantity minimum of 50 cases.
25. The prices of both Coors and Olympia are adjusted to account for the 11 oz. bottle.
26. All prices are based on a quantity minimum as follows: Budweiser, Schlitz, Pabst, Ruppert, Rheingold at 25 cases; Schaefer, Narragansett, Harvard, Pickwick, Dawson, and Kreuger at 10 cases; Ballantine at 5 cases.

APPENDIX 2

**Excerpt from
House of Representatives Judiciary Committee
Report on the Clayton Act
63d Congress, 2d Session, Report No. 627**

II.

Price Discriminations.

Section 2 of the bill is intended to prevent unfair discriminations. It is expressly designed with the view of correcting and forbidding a common and widespread unfair trade practice whereby certain great corporations and also certain smaller concerns which seek to secure a monopoly in trade and commerce by aping the methods of the great corporations, have heretofore endeavored to destroy competition and render unprofitable the business of competitors by selling their goods, wares, and merchandise at a less price in the particular communities where their rivals are engaged in business than at other places throughout the country. This section expressly forbids discrimination in price between different dealers of commodities that are sold for use, consumption or resale within the United States or any place within its jurisdiction, when such discrimination is made with the purpose or intent to thereby destroy or wrongfully injure the business of a competitor, either of such dealer or seller. It will be observed that the language used makes this section applicable only to domestic commerce or, in other words, its application is restricted to commerce carried on in the United States or in places under the jurisdiction thereof, and has no reference to commodities sold either in this country or abroad which are intended solely for our export trade. The violation of any of the provisions of this section is made a misdemeanor, and is made punishable by fine or imprisonment, or both. There are two pro-

Appendix 2

visos in this section which are important. The first proviso permits discrimination in prices of commodities on account of differences in grade, quality and quantity of the commodity sold, or that makes only due allowance for difference in the cost of transportation. The second proviso permits persons selling goods, wares and merchandise in commerce to select their own customers, except as provided in Section 3, which will be considered later. The necessity for legislation to prevent unfair discrimination in prices with a view of destroying competition needs little argument to sustain the wisdom of it. In the past it has been a most common practice of great and powerful combinations engaged in commerce—notably the Standard Oil Co., and The American Tobacco Company, and others of less notoriety, but of great influence—to lower prices of their commodities, oftentimes below the cost of production in certain communities and sections where they had competition, with the intent to destroy and make unprofitable the business of their competitors, and with the ultimate purpose in view of thereby acquiring a monopoly in the particular locality or section in which the discriminating price is made. Every concern that engages in this evil practice must of necessity recoup its losses in the particular communities or sections where their commodities are sold below cost or without a fair profit by raising the price of the same class of commodities above their fair market value in other sections or communities. Such a system or practice is so manifestly unfair and unjust, not only to competitors who are directly injured thereby, but to the general public, that your committee is strongly of the opinion that the present anti-trust laws ought to be supplemented by making this particular form of discrimination a specific offense under the law when practiced by those engaged in commerce.

Appendix 2

The necessity for such legislation is shown by the fact that 19 States have enacted laws forbidding this particular form of discrimination within their borders. These State statutes have practically all been enacted in the last few years, and most of them in the years 1911, 1912 and 1913. It is important these State statutes be supplemented by additional legislation by Congress, for it is now possible for one of these great corporations doing business in not only the 48 States but throughout the world to lower the prices of its commodities in a particular State and sell within that State at a uniform price in compliance with State laws, and thereby destroy the business of all independent concerns and competitors operating within the State. The loss incurred by such gigantic effort in destroying competition can be more than regained by general increase in the prices of their commodities in other sections. In fact, complaint has been made to your committee that efforts have been made by certain great corporations engaged in commerce in some of the States which have enacted statutes forbidding such discrimination to circumvent the State laws by the methods above described. In seeking to enact Section 2 into law we are not dealing with an imaginary evil or against ancient practices long since abandoned, but are attempting to deal with a real, existing, widespread, unfair and unjust trade practice that ought at once to be prohibited, insofar as it is within the power of Congress to deal with the subject. This we think is accomplished by Section 2 of this bill. As further showing the necessity for such legislation, we call attention to the States which have heretofore adopted statutes varying in form, but for the purpose of preventing unfair discriminations in price, as follows:

1. Arkansas, act 1905, as amended March 12, 1913.
2. Idaho, antitrust act of 1911.

Appendix 2

3. Iowa, Revised Statutes.
4. Louisiana, act of 1908.
5. Missouri, Revised Statutes.
6. Nebraska, act of 1913.
7. New Jersey, act of 1913.
8. North Carolina, act 1913.
9. Oklahoma, act 1913.
10. South Carolina, act 1902.
11. Utah, act 1913.
12. Wisconsin, act 1913.
13. Wyoming, Revised Statutes, 1911.
14. Kansas, act 1905.
15. Michigan, act 1913.
16. Massachusetts, act 1912.
17. Montana, act 1913.
18. North Dakota, act 1913.
19. California, act 1913.

APPENDIX 3

**Griesedieck Bros. Package Beer Losses in St. Louis
Compared to Losses Outside St. Louis**

<i>— Sales in St. Louis —</i>			<i>— Sales Outside St. Louis —</i>		
<i>Sales</i> (Cases)	<i>Loss</i> (Cases)	<i>%</i> <i>Change</i>	<i>%</i> <i>Change</i>	<i>Loss</i> (Cases)	<i>Sales</i> (Cases)
1st 6 Mos. 1952	1,034,524				4,133,4
1st 6 Mos. 1953	901,931				3,788,9
		132,593	-12.8	-8.3	344,542
Last 6 Mos. 1952	1,094,465				3,925,2
Last 6 Mos. 1953	952,106				3,833,0
		142,359	-13.0	-2.4	92,232
1st 6 Mos. 1953	901,931				3,788,9
1st 6 Mos. 1954	784,835				3,636,7
		117,096	-13.0	-4.0	152,233
Last 6 Mos. 1953	952,106				3,833,0
Last 6 Mos. 1954	585,636				3,091,9
		366,470	-38.5	-19.3	741,061
1st 6 Mos. 1954	784,835				3,636,7
1st 6 Mos. 1955	424,577				2,569,4
		360,258	-45.9	-29.3	1,067,313

(Source: Comm. Ex. 70, R. 1071; Ex. 179, R. 147)

FEB 26 1960

JAMES R. BROWNING, Clerk

No. 389

In the Supreme Court of the United States

October Term, 1959

FEDERAL TRADE COMMISSION, PETITIONER

v.

ANHEUSER-BUSCH, INC.

**ON WRIT OF HABEAS CORPUS TO THE UNITED STATES COURT OF
APPEALS FOR THE SEVENTH CIRCUIT**

REPLY BRIEF FOR THE FEDERAL TRADE COMMISSION

J. LEO RANKIN,

Solicitor General,

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Federal Trade Commission,

Washington 25, D.C.

In the Supreme Court of the United States

OCTOBER TERM, 1959

No. 389

FEDERAL TRADE COMMISSION, PETITIONER

v.

ANHEUSER-BUSCH, INC.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE SEVENTH CIRCUIT

REPLY BRIEF FOR THE FEDERAL TRADE COMMISSION

Section 2(a) of the Clayton Act, as amended, prohibits discriminations in price between different purchasers "where the effect of such discrimination may be substantially to lessen competition or tend to create a monopoly in *any* line of commerce, or to injure, destroy, or prevent competition with any person who either *grants* or knowingly receives the benefit of such discrimination * * *" (emphasis added).

In this case the Commission found that respondent violated Section 2 by making substantial price reductions in the St. Louis area while maintaining higher prices in all other areas, and that the effect of such price discrimination was substantially to lessen competition in the *seller's* line of commerce and tended

to create a monopoly therein. The Commission did not find that respondent's purchasers in other areas were in competition with those in St. Louis or that its price reductions in St. Louis resulted in "losses" which respondent passed on to its customers in other areas by charging them a higher price. In the proceedings before the Commission, neither it nor respondent submitted any evidence relating to the effects, if any, of respondent's price reductions in St. Louis upon its customers in other areas. So far as the record shows, neither party considered such evidence to be relevant to the issues framed by the Commission's complaint.

In its petition for review in the Court of Appeals (R. 64-76), respondent raised three questions: (1) Whether the evidence supported the Commission's findings of injury to competition; (2) whether respondent had established an affirmative meeting-competition-in-good-faith defense under Section 2(b); and (3) whether the Commission's order was of unwarranted breadth. The petition for review presented no contention that "discrimination" could not be found because the purchasers in other areas were not competing with those in St. Louis and there was no showing that the price reductions in that market operated to the economic injury or detriment of the non-St. Louis purchasers. That contention was injected into the litigation for the first time when respondent filed its reply brief in the Court of Appeals.

As we read the opinion below (R. 1515-1521), it deals with but one question: Where there is a difference in price between purchasers in different markets

who are not competing with one another, is there "a relationship that entitles them to comparable treatment as to price"? Singling out the words "discriminate in price" and disregarding the remainder of the sentence in Section 2 which defines what discriminations in price are unlawful, the court answered the question in the negative. Accordingly, it set aside the Commission's order without reaching or considering the questions presented in respondent's petition for review.

Under the construction of the statute adopted below, it would be entirely inapplicable to price discriminations between purchasers in different areas unless adverse economic effects upon the unfavored purchasers are shown. As we have argued in our main brief, however, Section 2 on its face requires no such showing of injury to competition in the purchasers' line of commerce, and a "discrimination in price" forbidden by the Act may exist where the only injury is to the competition of other sellers in the area where the lower price is charged. A requisite finding of injury to competition either in the primary (seller's) line of commerce or in the secondary (purchasers') line suffices under Section 2. There need not be identity in the line of commerce in which the price discrimination occurs and that in which the injury to competition results.

In its brief in this Court, respondent appears to agree, in large measure at least, with the Government's construction of the statute. It concedes throughout its brief (*e.g.*, pp. 20, 23, 24, 31) that Section 2 prohibits so-called territorial or geo-

graphical price discriminations between purchasers in different areas where the only injury to competition is in the seller's line of commerce. This seems to be, in substance, a confession of error to the extent that the Court of Appeals has held (as we believe its opinion clearly shows) to the contrary. Respondent argues, however, that the Government has read the opinion below too narrowly, and that the court below has not held that the purchasers must be *competing* with each other before there can be a discrimination in price. Relying mainly on the statement of Representative Utterback quoted by the court below (R. 1519), respondent finds in the opinion an implicit holding that where price reductions in one area involve a sacrifice of the seller's costs or profits which must be made up by charging a higher price to purchasers in other areas, the latter are "discriminated against" even though no competitive relationship exists between purchasers in the different areas. As respondent reads the opinion below, the court set aside the Commission's order because there was no allegation or proof that respondent's price reductions in St. Louis were below its cost or unreasonably low, and that its losses in that area were passed on to its customers in other areas by charging them a higher price. Accordingly, there was no relationship entitling purchasers in other areas to "comparable treatment" with the St. Louis purchasers, and hence there was no "discrimination."

Assuming *arguendo* that respondent is correct in its reading of the opinion, it would still be true that the

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Court of Appeals has misconstrued the statute by making "discrimination" depend on a showing not only that purchasers in other markets were charged a higher price but that they were adversely affected by the price differential. Under such a view of the statute, its prohibitions on territorial price raids, no matter how destructive to competition, would be confined to those situations where it could be shown that the price cutter was, by increasing his prices in other areas, passing on to customers in those areas the losses he was suffering in the area of the price cut. It would leave respondent and other dominant business organizations free to conduct the very territorial price forays which Section 2 of the Clayton Act was intended to prevent (see our main brief, pp. 13-16) so long as they were willing to absorb any temporary short-term losses (or lessening of profits) to gain their long-term objectives.

Even respondent recognizes that it was under a statutory duty not to "discriminate" in price between its purchasers in different markets, though they were not competing with one another. It concedes, as it must under the controlling precedents (Resp. Br. 37-44), that a seller who lowers his price in one area but not in others is "discriminating" in price, even in the absence of any competitive or other relationship between the purchasers in different areas, at least where the price reduction is made with the purpose or design to eliminate competition or to establish monopoly. In such situations, exemplified by *Moore v. Mead's Fine Bread Co.*, 348 U.S. 115, and *Maryland Baking Co. v. Federal Trade Commission*, 243 F. 2d 716 (C.A. 4), violation of the Act was found without any show-

ing that "losses" suffered by the seller as a result of the price reductions were passed on to purchasers in other markets in the form of higher prices. The only injury to competition in those cases was in the seller's line of commerce, and apparently no one thought it relevant to inquire whether purchasers in other markets had a "relationship entitling them to comparable treatment as to price". Yet those are the cases on which respondent principally relies.

One thing is crystal clear in the opinion below: that the court did not question or even consider the adequacy of the Commission's findings that respondent's price reductions in the St. Louis area had the injurious effects on competition required under Section 2. The court expressly assumed (R. 1518) that these pricing practices were directed at respondent's competitors in St. Louis and that competition in their line of commerce was substantially lessened thereby. There is not the slightest intimation in the opinion that the Commission's order was deemed invalid because of any inadequacy or defect, factually or legally, in the Commission's findings as to injury to seller's competition.

The opinion does not discuss whether the price cuts were deep or shallow, whether they were below cost or unreasonably low, whether they were "normal" pricing activities in a competitive market, or whether they were made for the purpose or design of eliminating competitors. The court accepted, for purposes of its decision, the Commission's position that its "proceeding was designed to stop a predatory pricing practice, a practice by which a national seller can disrupt any given market to the injury of its local

competitors in that market.' " (R. 1518.) Furthermore, the court below treated the facts of this case as "lying expressly within the scope of section 3" of the Robinson-Patman Act, which imposes criminal sanctions on the sale of goods at unreasonably low prices for the purpose of destroying competition or eliminating a competitor (R. 1521).

Thus, the plain holding of the court below is that, no matter how severely price reductions injure or destroy the seller's competitors in the area and even though they may be "predatory" and for the purpose of driving the competitors out of business and establishing a monopoly, there is no "discrimination" under the Act because the essence of discrimination is that there be injury or disadvantage to those allegedly discriminated against, to wit, the purchasers in other areas who are charged the higher price.

We have pointed out that the words "discrimination in price" do not appear in the statute as a naked, isolated phrase. "Discrimination" in legal usage means a differentiation in treatment which, judged by the controlling legal standard, is invidious and unlawful. Here, too, Congress did not condemn "price discriminations" in the abstract. It laid down, for the guidance of the Commission, the courts, and the business world, governing standards for determining when a price differential is valid and when it is not.

Respondent expresses apprehension that the Commission's position in this case will preclude "normal pricing activities that have no antitrust significance". But the Act leaves neither the Commission nor the courts at large in determining, for purposes of Section 2, the legality of pricing activities. Broadly speaking,

whether a price difference is a prohibited "discrimination" depends on its injurious or destructive effects on competition, as defined in the section, and on whether it can be justified within the various statutory defenses set out in the provisos to Section 2. Of course, it is not the Commission's position that every price differential is *ipso facto* such a "discrimination in price" as is forbidden by the Act. To be unlawful the Commission must find, on the basis of supporting facts, that the "discrimination" has the injurious or destructive effects on competition specified by Section 2(a). And, as this Court has pointed out, "Even if any price differential were to be comprehended within the term 'discrimination in price,' [the Act] * * * cannot be read as declaring out of bounds price differentials within one or more of the 'defenses' available to sellers, such as that the price differentials reflect cost differences, fluctuating market conditions, or bona fide attempts to meet competition, as those defenses are set out in the provisos of §§ 2(a) and 2(b)."¹ *Automatic Canteen Co. v. Federal Trade Commission*, 346 U.S. 61, 71.

There is a significant difference, legally as well as factually, between normal and legitimate pricing activities designed to obtain a larger share of business in a marketing area and those which represent a punitive or destructive attack on local competitors and impair the vitality and health of the processes of competition.

¹ For the convenience of the Court, we are setting out in the Appendix the full text of Section 2 of the Clayton Act, both in its original form and as amended by the Robinson-Patman Act, and Section 3 of the latter Act.

It may be that in some cases the line will be a fine or difficult one to draw, but Congress has entrusted to the Federal Trade Commission, subject to appropriate judicial review, the function of distinguishing between the two types of competitive behavior and determining whether the effects of particular pricing differentials "may be substantially to lessen competition or tend to create a monopoly in any line of commerce, or to injure, destroy, or prevent competition with any person who either grants or knowingly receives the benefit of such discrimination * * *."

We submit, therefore, that the clear error of statutory construction made by the court below in dealing with the words "discrimination in price" (an error which respondent seems to acknowledge), finding in them a requirement that there be economic injury or disadvantage to the unfavored purchasers in other markets who are charged the higher price, requires that there be a reversal and remand. It would be inappropriate for us to argue here the two questions which respondent discusses in Point II of its brief, viz., whether the evidence supported the Commission's findings as to injury to competition, and whether respondent has a sufficient meeting-competition-in-good-faith defense under Section 2(b). Because of its error at the threshold of the appeal, the court below did not reach or consider those questions. On remand, they will be open for full examination and argument in the court below. Involving, as they do, mixed issues of law and fact which must be canvassed in the light of a 3-volume printed record of more than 1500 pages, they are not appropriate for *de novo*

review here, as is more fully pointed out in our main brief, pp. 25-28.²

One final observation must be made. Throughout its brief (*e.g.*, pp. 20, 22, 25, 28, 37, 44) respondent argues that the Act requires proof that the lower price is below cost or unreasonably low and for the purpose or design to eliminate a competitor and thereby obtain a monopoly. This is an argument, not as to the meaning of "discrimination in price", but as to what injuries to competition, inflicted with what purpose, are prohibited by the Act—a question not reached by the court below and not mentioned in its opinion. This question, too, will be open on remand to the Court of Appeals.

We may briefly note here, however, that respondent's argument would, if accepted, engraft upon Section 2 the standard of proof required under Section 3, the criminal provision. While the two sections, as this Court has noted (*Nashville Milk Co. v. Carnation Co.*, 355 U.S. 373, 378), partially overlap, Section 3 "includes a provision which is *not* found in § 2 of the Clayton Act, namely, selling 'at unreasonably low prices for the purpose of destroying competition or eliminating a competitor.'" (*Ibid.*; italics in original.) Section 2 "is designed to reach such

² Respondent has lodged with the Clerk of this Court copies of the Commission's brief in the Court of Appeals, which deals entirely with the questions not reached by the court below. Even a cursory examination of that brief, compared with the discussion contained in Point II of respondent's brief in this Court, will suffice to show the broad range of inquiry which is required for resolution of the controversy between the parties on those questions, emphasizing the appropriateness of their being reviewed initially by the court below.

discriminations [in price] 'in their incipieney,' before the harm to competition is effected. It is enough that they 'may' have the prescribed effect. Cf. *Standard Fashion Co. v. Magrane-Houston Co.*, 258 U.S. 346, 356-357." *Corn Products Co. v. Federal Trade Commission*, 324 U.S. 726, 738; *Federal Trade Commission v. Morton Salt Co.*, 334 U.S. 37, 46. Even if a showing of "predatory" design were essential to a finding of unlawful injury to competition under Section 2, respondent errs in contending that such a showing was not made in the instant case. (See our main brief, p. 25, footnote 19.) At all events, that is a matter for the Court of Appeals to consider on remand, and we do not argue the point here.³

Respectfully submitted.

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General Counsel,

Federal Trade Commission.

FEBRUARY 1960.

³ We cannot leave unanswered respondent's assertion (Br. 32-33) that the Government's brief

* * * is less than candid in discussing the legislative history of Section 2 of the Clayton Act (1914) * * * by conveniently omitting every reference in the report [of the House Judiciary Committee] to the real intent of Congress—to prohibit only price reductions or differences, usually below cost, made with the purpose or intent to destroy competition and thereby obtaining a monopoly. In order that this Court may appreciate the extent to which

the Commission has misstated the legislative history underlying the passage of the 1914 act, we are attaching as Appendix 2 the complete House Judiciary Report insofar as it deals with Section 2 of the Clayton Act. It will be noted that there are repeated references in the Report to the nature of the price differences which were being proscribed, and that there was no intent to proscribe all territorial price differences or reductions but only those which were undertaken with an intent to destroy competition and obtain a monopoly.

Respondent has apparently overlooked a significant difference between Section 2, as passed by the House, and the form in which it was finally enacted. As passed by the House (H.R. 15657) Section 2 made it a misdemeanor to discriminate in price between different purchasers "with the purpose or intent thereby to destroy or wrongfully injure the business of a competitor, of either such purchaser or seller". The quoted language was stricken out in the Senate, and the bill, as agreed to in conference and passed, substituted, in lieu of the "purpose or intent" provision, the following standard for determining legality of price discriminations: "where the effect of such discrimination may be to substantially lessen competition or tend to create a monopoly in any line of commerce." The Senate also deleted the criminal sanction. See Sen. Doc. No. 584, 63d Cong., 2d Sess., p. 4 (1914).

It is clear, therefore, that the portion of the House Committee report upon which respondent so heavily relies, and the omission of which in the Government's brief is criticized, refers to a provision of the House bill which was ultimately rejected by Congress. The legal significance of the deletion of this provision, and the inferences which may properly be drawn therefrom in determining the kind of injurious or destructive effects on competition required under Section 2, need not be considered by the Court at this stage of the litigation. As already shown, that question was not decided by the court below and is not here for review, but will be open for consideration on remand.

APPENDIX

CLAYTON ACT (1914)

Section 2 of the Clayton Act, 38 Stat. 730, provided:

SEC. 2. That it shall be unlawful for any person engaged in commerce, in the course of such commerce, either directly or indirectly to discriminate in price between different purchasers of commodities, which commodities are sold for use, consumption, or resale within the United States or any Territory thereof or the District of Columbia or any insular possession or other place under the jurisdiction of the United States, where the effect of such discrimination may be to substantially lessen competition or tend to create a monopoly in any line of commerce: *Provided*, That nothing herein contained shall prevent discrimination in price between purchasers of commodities on account of differences in the grade, quality, or quantity of the commodity sold, or that makes only due allowance for difference in the cost of selling or transportation, or discrimination in price in the same or different communities made in good faith to meet competition: *And provided further*, That nothing herein contained shall prevent persons engaged in selling goods, wares, or merchandise in commerce from selecting their own customers in bona fide transactions and not in restraint of trade.

ROBINSON-PATMAN ACT (1936)

Section 2 of the Clayton Act was amended by the Robinson-Patman Act, 49 Stat. 1526, to read as follows:

SEC. 2. (a) That it shall be unlawful for any person engaged in commerce, in the course of such commerce, either directly or indirectly, to discriminate in price between different purchasers of commodities of like grade and quality, where either or any of the purchases involved in such discrimination are in commerce, where such commodities are sold for use, consumption, or resale within the United States or any Territory thereof or the District of Columbia or any insular possession or other place under the jurisdiction of the United States, and where the effect of such discrimination may be substantially to lessen competition or tend to create a monopoly in any line of commerce, or to injure, destroy, or prevent competition with any person who either grants or knowingly receives the benefit of such discrimination, or with customers of either of them: *Provided*, That nothing herein contained shall prevent differentials which make only due allowance for differences in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which such commodities are to such purchasers sold or delivered: *Provided, however*, That the Federal Trade Commission may, after due investigation and hearing to all interested parties, fix and establish quantity limits, and revise the same as it finds necessary, as to particular commodities or classes of commodities, where it finds that available purchasers in greater quantities are so few as to render differentials on account thereof unjustly discriminatory or promotive of monopoly in any line of commerce; and the foregoing shall then not be construed to permit

differentials based on differences in quantities greater than those so fixed and established: *And provided further*, That nothing herein contained shall prevent persons engaged in selling goods, wares, or merchandise in commerce from selecting their own customers in bona fide transactions and not in restraint of trade: *And provided further*, That nothing herein contained shall prevent price changes from time to time where in response to changing conditions affecting the market for or the marketability of the goods concerned, such as but not limited to actual or imminent deterioration of perishable goods, obsolescence of seasonal goods, distress sales under court process, or sales in good faith in discontinuance of business in the goods concerned.

(b) Upon proof being made, at any hearing on a complaint under this section, that there has been discrimination in price or services or facilities furnished, the burden of rebutting the prima-facie case thus made by showing justification shall be upon the person charged with a violation of this section, and unless justification shall be affirmatively shown, the Commission is authorized to issue an order terminating the discrimination: *Provided, however*, That nothing herein contained shall prevent a seller rebutting the prima-facie case thus made by showing that his lower price or the furnishing of services or facilities to any purchaser or purchasers was made in good faith to meet an equally low price of a competitor, or the services or facilities furnished by a competitor.

(c) That it shall be unlawful for any person engaged in commerce, in the course of such commerce, to pay or grant, or to receive or accept, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, except for services rendered in connection with the sale

or purchase of goods, wares, or merchandise, either to the other party to such transaction or to an agent, representative, or other intermediary therein where such intermediary is acting in fact for or in behalf, or is subject to the direct or indirect control, of any party to such transaction other than the person by whom such compensation is so granted or paid.

(d) That it shall be unlawful for any person engaged in commerce to pay or contract for the payment of anything of value to or for the benefit of a customer of such person in the course of such commerce as compensation or in consideration for any services or facilities furnished by or through such customer in connection with the processing, handling, sale, or offering for sale of any products or commodities manufactured, sold, or offered for sale by such person, unless such payment or consideration is available on proportionally equal terms to all other customers competing in the distribution of such products or commodities.

(e) That it shall be unlawful for any person to discriminate in favor of one purchaser against another purchaser or purchasers of a commodity bought for resale, with or without processing, by contracting to furnish or furnishing, or by contributing to the furnishing of, any services or facilities connected with the processing, handling, sale, or offering for sale of such commodity so purchased upon terms not accorded to all purchasers on proportionally equal terms.

(f) That it shall be unlawful for any person engaged in commerce, in the course of such commerce, knowingly to induce or receive a discrimination in price which is prohibited by this section.

Section 3 of the Robinson-Patman Act, 49 Stat. 1526, 1528, provides:

SEC. 3. It shall be unlawful for any person engaged in commerce, in the course of such commerce, to be a party to, or assist in, any transaction of sale, or contract to sell, which discriminates to his knowledge against competitors of the purchaser, in that, any discount, rebate, allowance, or advertising service charge is granted to the purchaser over and above any discount, rebate, allowance, or advertising service charge available at the time of such transaction to said competitors in respect of a sale of goods of like grade, quality, and quantity; to sell, or contract to sell, goods in any part of the United States at prices lower than those exacted by said person elsewhere in the United States for the purpose of destroying competition, or eliminating a competitor in such part of the United States; or, to sell, or contract to sell, goods at unreasonably low prices for the purpose of destroying competition or eliminating a competitor.

Any person violating any of the provisions of this section shall, upon conviction thereof, be fined not more than \$5,000 or imprisoned not more than one year, or both.

SUPREME COURT OF THE UNITED STATES

No. 389.—OCTOBER TERM, 1959.

Federal Trade Commission,	} On Writ of Certiorari to	
Petitioner,		the United States Court
v.		of Appeals for the Sev-
Anheuser-Busch, Inc.	} enth Circuit.	

[June 20, 1960.]

MR. CHIEF JUSTICE WARREN delivered the opinion of the Court.

The question presented is whether certain pricing activities of respondent, Anheuser-Busch, Inc., constituted price discrimination within the meaning of § 2 (a) of the Clayton Act, 38 Stat. 730, as amended by the Robinson-Patman Act, 49 Stat. 1526, 15 U. S. C. § 13 (a).

Section 2 (a) provides in pertinent part:

“That it shall be unlawful for any person engaged in commerce, in the course of such commerce, either directly or indirectly, to discriminate in price between different purchasers of commodities of like grade and quality, where either or any of the purchases involved in such discrimination are in commerce, where such commodities are sold for use, consumption, or resale within the United States or any Territory thereof or the District of Columbia or any insular possession or other place under the jurisdiction of the United States, and where the effect of such discrimination may be substantially to lessen competition or tend to create a monopoly in any line of commerce, or to injure, destroy, or prevent competition with any person who either grants or knowingly receives the benefit of such discrimination, or with customers of either of them. . . .”

This controversy had its genesis in a complaint issued by the Federal Trade Commission in 1955, which charged respondent, a beer producer, with a violation of § 2 (a). The complaint alleged that respondent had "discriminated in price between different purchasers of its beer of like grade and quality by selling it to some of its customers at higher prices than to other[s]"; that, more specifically, respondent had lowered prices in the St. Louis, Missouri, market, without making similar price reductions in other markets; that this discrimination had already diverted substantial business from respondent's St. Louis competitors; that it was "sufficient" to have the same impact in the future; that there was a "reasonable probability" it would substantially lessen competition in respondent's line of commerce; and that it might also tend to create a monopoly or to injure, destroy, or prevent competition with respondent. Thus the complaint described a pricing pattern which had adverse effects only upon sellers' competition, commonly termed primary-line competition, and not upon buyers' competition, commonly termed secondary-line competition.

Both the hearing examiner and, on appeal, the Commission held that the evidence introduced at the hearing established a violation of § 2 (a). The Commission found the facts to be as follows:

Respondent, a leading national brewer,¹ sells a so-called premium beer, which is priced higher than the beers of regional and local breweries in the great majority of markets, although both the price of respondent's beer and the premium differential vary from market to market and from time to time. During the period relevant to this case, respondent had three principal competitors in the St. Louis area, all regional breweries: Falstaff Brewing

¹ Anheuser-Busch ranked second nationally in gross sales in 1952 and 1955, and first in 1953 and 1954.

Corporation, Griesedieck Western Brewing Company, and Griesedieck Brothers Brewery Company.² In accord with the generally prevailing price structure, these breweries normally sold their products at a price substantially lower than respondent's.

In 1953, most of the national breweries, including respondent, granted their employees a wage increase, and on October 1, 1953, they put into effect a general price increase.³ Although many regional and local breweries throughout the country followed suit by raising their prices, Falstaff, Griesedieck Western, and Griesedieck Brothers maintained their pre-October price of \$2.35 per standard case. Although respondent's sales in the St. Louis area did not decline, its national sales fell, along with industry sales in general.

On January 4, 1954, respondent lowered its price in the St. Louis market from \$2.93 to \$2.68 per case, thereby reducing the previous 58¢ differential to 33¢. A second price cut occurred on June 21, 1954, this time to \$2.35, the same price charged by respondent's three competitors. On January 3, 1954, the day before the first price cut, respondent's price in the St. Louis market had been lower

² It appears that Griesedieck Western sold out to Carling Brewing Company in October, 1954.

³ Respondent maintains—and petitioner agrees—that the evidence establishes that it did not raise its prices in Missouri or Wisconsin. In view of our disposition of the case, this is immaterial to the issue presented on this review.

Possibly we should note that most of the facts in this particular paragraph are taken from the initial decision. Although the Commission adopted "the findings, conclusions, and order, as modified contained in the initial decision," there is some disagreement as to how encompassing this incorporation order was. See note 10, *infra*. Since that dispute concerns matters not relevant to our decision, and since the facts set forth above are merely background and appear to be unquestioned, we find it unnecessary to resolve the disagreement.

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than its price in other markets,⁴ and during the period of the price reductions in the St. Louis area, respondent made no similar price reductions in any other market. In March, 1955, respondent increased its St. Louis price 45¢ per case, and Falstaff, Griesedieck Western, and Griesedieck Brothers almost immediately raised their prices 15¢, which re-established a substantial differential. This ended the period of alleged price discrimination.

The Commission concluded:

"As a result of maintaining higher prices to all purchasers outside of the St. Louis area and charging the lower prices, as reduced in 1954, to only those customers in the St. Louis area, respondent discriminated in price as between purchasers differently located."

Since, as will appear, it is this aspect of the decision which concerns us, it is necessary only to sketch summarily the remaining elements in the Commission's decision. The Commission's finding of competitive injury was predicated to a substantial degree upon what it regarded as a demonstrated diversion of business to respondent from its St. Louis competitors during the period of price discrimination. For example, by comparing that period with a similar period during the previous year, the Commission determined that respondent's sales had risen 201.5%, Falstaff's sales had dropped slightly, Griesedieck Western's sales had fallen about

⁴ The following table discloses the degree of this price spread:

St. Louis, Mo.	\$2.93	Washington, D. C.	\$3.65
Chicago, Ill.	3.44	Detroit, Mich.	3.55
Cincinnati, Ohio.	3.75	Boston, Mass.	3.69
Houston, Tex.	3.70	Kansas City, Mo.	3.15
Bronx, N. Y.	3.68	St. Paul, Minn.	3.53
Kearney, Nebr.	3.68	Sioux Falls, S. Dak.	3.50
St. Joseph, Mo.	3.17	Denver, Colo.
Buffalo, N. Y.	3.60	San Francisco, Calif.	3.79
Baltimore, Md.	3.62	Los Angeles, Calif.	3.80

33%, and Griesedieck Brothers' sales had plummeted about 41%. In tabular form, the relative market positions of the St. Louis sellers were as follows:

	<i>Dec. 31</i> <i>1953</i>	<i>June 30</i> <i>1954</i>	<i>Mar. 1</i> <i>1955</i>	<i>July 31</i> <i>1955</i>
Respondent	12.5	16.55	39.3	21.03
Griesedieck Brothers.....	14.4	12.58	4.8	7.36
Falstaff	29.4	32.05	29.1	36.62
Griesedieck Western.....	38.9	33.	23.1	27.78
All others.....	4.8	5.82	3.94	7.21

The Commission rejected respondent's contention that its price reductions had been made in good faith to meet the equally low price of a competitor within the meaning of the proviso to § 2 (b) of the Act, 49 Stat. 1526, 15 U. S. C. § 13 (b), and also found respondent's attack upon the examiner's cease-and-desist order to be meritless. The Commission thereupon adopted and issued that order, with only slight modification.⁵

On review, the Court of Appeals set aside the order. 265 F. 2d 677. We granted certiorari, 361 U. S. 880, because a conflict had developed among the Courts of Appeals on a question of importance in the administration of the statute. See *Atlas Building Products Co. v. Diamond Block & Gravel Co.*, 269 F. 2d 950 (C. A. 10th Cir.), petition for cert. filed Oct. 13, 1959.

⁵ It is ORDERED, that the respondent, Anheuser-Busch, Inc., a corporation, and its officers, representatives, agents and employees, directly or through any corporate or other device, in the sale of beer of like grade and quality, do forthwith cease and desist from discriminating, directly or indirectly, in price, between different purchasers engaged in the same line of commerce, where either, or any, of the purchases involved in such discrimination are in commerce, as 'commerce' is defined in the Clayton Act, by a price reduction in any market where respondent is in competition with any other seller, unless it proportionally reduces its prices everywhere for the same quantity of beer."

The limited nature of our inquiry can be fully appreciated only in the light of the correspondingly narrow decision of the Court of Appeals, which rested entirely upon the holding that the threshold statutory element of price discrimination had not been established. Thus the Court of Appeals did not consider whether the record supported a finding of the requisite competitive injury, whether respondent's good faith defense was valid, or whether the Commission's order was unduly broad. We have concluded that the Court of Appeals erred in its construction of § 2 (a) and that the evidence fully warranted the Commission's finding of price discrimination. Respondent would have us affirm nonetheless on any of the alternative grounds it strongly urged below. While this is, to be sure, an appropriate course of action under proper circumstances, we believe that it would be unwise for us to grapple with these intricate problems, the solution to which requires a careful examination of a voluminous record, before they have been dealt with by the Court of Appeals. Therefore, the case will be remanded, and of course nothing in this opinion should be interpreted as intimating a view upon the remaining aspects of the controversy.

A discussion of the import of the § 2 (a) phrase "discriminate in price," in the context of this case, must begin with a consideration of the purpose of the statute with respect to primary-line competition. The Court of Appeals expressed some doubt that § 2 (a) was designed to protect this competition at all, but respondent has not undertaken to defend that position here. This is entirely understandable. While "precision of expression is not an outstanding characteristic of the Robinson-Patman Act," *Automatic Canteen Co. v. Federal Trade Comm'n.*, 346 U. S. 61, 65, it is certain at least that § 2 (a) is violated where there is a price discrimination which deals the requisite injury to primary-line competition, even

though secondary-line and tertiary-line competition are unaffected. The statute could hardly be read any other way, for it forbids price discriminations "where the effect . . . may be substantially to lessen competition or tend to create a monopoly *in any line of commerce*, or to injure, destroy, or prevent competition with any person *who either grants or knowingly receives the benefit of such discrimination, or with customers of either of them.*" (Emphasis added.)

The legislative history of § 2 (a) is equally plain. The section, when originally enacted as part of the Clayton Act in 1914, was born of a desire by Congress to curb the use by financially powerful corporations of localized price-cutting tactics which had gravely impaired the competitive position of other sellers.⁶ It is, of course, quite true—and too well known to require extensive exposition—that the 1936 Robinson-Patman amendments to the Clayton Act were motivated principally by congres-

⁶ "Section 2 of the bill . . . is expressly designed with the view of correcting and forbidding a common and widespread unfair trade practice whereby certain great corporations and also certain smaller concerns which seek to secure a monopoly in trade and commerce by aping the methods of the great corporations, have heretofore endeavored to destroy competition and render unprofitable the business of competitors by selling their goods, wares, and merchandise at a less price in the particular communities where their rivals are engaged in business than at other places throughout the country. . . . In the past it has been a most common practice of great and powerful combinations engaged in commerce—notably the Standard Oil Co., and the American Tobacco Co., and others of less notoriety, but of great influence—to lower prices of their commodities, oftentimes below the cost of production in certain communities and sections where they had competition, with the intent to destroy and make unprofitable the business of their competitors, and with the ultimate purpose in view of thereby acquiring a monopoly in the particular locality or section in which the discriminating price is made. . . ." H. R. Rep. No. 627, 63d Cong., 2d Sess. 8. See also S. Rep. No. 698, 63d Cong., 2d Sess. 2-4.

sional concern over the impact upon secondary-line competition of the burgeoning of mammoth purchasers, notably chain stores.⁷ However, the legislative history of these amendments leaves no doubt that Congress was intent upon strengthening the Clayton Act provisions, not weakening them, and that it was no part of Congress' purpose to curtail the pre-existing applicability of § 2 (a) to price discriminations affecting primary-line competition.⁸

The federal courts, both before and after the amendment of § 2 (a), have taken this view of the scope of the statute in cases involving impairment of primary-line competition. See *Porto Rican American Tobacco Co. v. American Tobacco Co.*, 30 F. 2d 234 (C. A. 2d Cir. 1929); *E. B. Muller & Co. v. Federal Trade Comm'n*, 142 F. 2d 511 (C. A. 6th Cir. 1944); *Maryland Baking Co. v. Federal Trade Comm'n*, 243 F. 2d 716 (C. A. 4th Cir. 1957); *Atlas Building Products Co. v. Diamond Block & Gravel Co.*, *supra* (1959). In fact, the original focus of § 2 (a) on sellers' competition was so evident that this Court was compelled to hold explicitly, contrary to lower court decisions,⁹ that the statute was not *restricted* to price discriminations impeding primary-line competition, but protected secondary-line competition as well. *Van Camp & Sons v. American Can Co.*, 278 U. S. 245 (1929). And

⁷ See H. R. Rep. No. 2287, 74th Cong., 2d Sess.; S. Rep. No. 1502, 74th Cong., 2d Sess.; F. T. C., Final Report on the Chain-Store Investigation, S. Doc. No. 4, 74th Cong., 1st Sess.; *Federal Trade Comm'n v. Morton Salt Co.*, 334 U. S. 37, 43; Att'y Gen. Nat'l Comm. Antitrust Rep. 155-156; Austin, Price Discrimination and Related Problems under the Robinson-Patman Act (2d rev. ed. 1959), 8-11; Palamountain, The Politics of Distribution, 188-234; Rowe, The Evolution of the Robinson-Patman Act: A Twenty-Year Perspective, 57 Col. L. Rev. 1059.

⁸ See sources cited in note 7, *supra*.

⁹ See *Mennen Co. v. Federal Trade Comm'n*, 288 F. 774; *National Biscuit Co. v. Federal Trade Comm'n*, 299 F. 733.

more recently, in *Moore v. Mead's Fine Bread Co.*, 348 U. S. 115 (1954), the Court sustained a treble damage judgment in favor of a competing seller which was based partly upon a violation of § 2 (a).

Thus neither the language of § 2 (a), its legislative history, nor its judicial application countenance a construction of the statute which draws strength from even a lingering doubt as to its purpose of protecting primary-line competition. But the rationale of the Court of Appeals appears to have been shaped by precisely this type of doubt. The view of the Court of Appeals was that, before there can be a price discrimination within the meaning of § 2 (a), "[t]here must be some relationship between the different purchasers which entitles them to comparable treatment." 265 F. 2d, at 681. Such a relationship would exist, the court reasoned, if different prices were being charged to *competing* purchasers. But the court observed that in this case all *competing* purchasers paid respondent the same price, so far as the record disclosed. Consequently, the court concluded that, even assuming the price cuts "were directed at [Anheuser-Busch's] local competitors, they were not *discriminatory*." ¹⁰ *Ibid*.

This qualification upon the applicability of § 2 (a) to primary-line competition cases is in no way adumbrated by the prevailing line of relevant decisions. In *Mead's Fine Bread Co.*, *supra*, in *Maryland Baking Co.*, *supra*, and in *Porto Rican American Tobacco Co.*, *supra*, violations of § 2 (a) were predicated upon injury to primary-line competition without reliance upon the presence or absence of competition among purchasers as a relevant

¹⁰ There is a dispute as to whether the Commission adopted a finding by the examiner which related to the purpose of the price reductions. Since we conclude that the issue of predatory intent is irrelevant to the question before us, it is unnecessary for us to resolve this dispute.

factor. And in *Muller & Co., supra*, while there was evidence that the purchasers in question were competing, the court explicitly rejected the notion that this was a necessary element of a violation in a primary-line case. 142 F. 2d, at 518. But cf. *Balian Ice Cream Co. v. Arden Farms Co.*, 231 F. 2d 356.

More important, however, is the incompatibility of the Circuit Court's rule with the purpose of § 2 (a). The existence of competition among buyers who are charged different prices by a seller is obviously important in terms of adverse effect upon secondary-line competition, but it would be merely a fortuitous circumstance so far as injury to primary-line competition is concerned. Since, as we have indicated, an independent and important goal of § 2 (a) is to extend protection to competitors of the discriminating seller, the limitation of that protection by the alien factor of competition among purchasers would constitute a debilitating graft upon the statute.

Although respondent's starting point is the same as that of the Court of Appeals—that a price discrimination is not synonymous with a price difference—its test of price discrimination is somewhat broader.¹¹ Respondent concedes that a competitive relationship among purchasers is not a prerequisite of price discrimination, but maintains that at least there must be "proof that the lower price is below cost or unreasonably low for the purpose or design to eliminate competition and thereby obtain a monopoly." Since such a finding is lacking here, respondent argues that it cannot be said that there was price discrimination.

Respondent asserts that its view is supported by legislative history, court decisions, and reason. Respondent

¹¹ Respondent maintains that the opinion of the Court of Appeals may and should be read to encompass respondent's views. It is true that there are certain passages in the opinion which lend some support to respondent's interpretation. In view of our disposition of the case, it is unnecessary for us either to accept or reject that construction.

relies heavily, as did the Court of Appeals, upon a statement made during Congress' consideration of the Robinson-Patman legislation by Representative Utterback, a manager of the conference bill which became § 2 (a). In this rather widely quoted exegesis of the section, Representative Utterback declared that "a discrimination is more than a mere difference," and exists only when there is "some relationship . . . between the parties to the discrimination which entitles them to equal treatment." Such a relationship would prevail among competing purchasers, according to the Congressman, and also "where . . . the price to one is so low as to involve a sacrifice of some part of the seller's necessary costs and profit," so that "it leaves that deficit inevitably to be made up in higher prices to his other customers." 80 Cong. Rec. 9416.¹² Respondent also cites expressions in the legislative history of the Clayton Act which reflect Congress' concern over classic examples of predatory business practices. See H. R. Rep. No. 627, 63d Cong., 2d Sess. 8; S. Rep. No. 698, 63d Cong., 2d Sess. 2-4. Moreover, respondent maintains that the principle it advances

¹² The statement in full is as follows:

"In its meaning as simple English a discrimination is more than a mere difference. Underlying the meaning of the word is the idea that some relationship exists between the parties to the discrimination which entitles them to equal treatment, whereby the difference granted to one casts some burden or disadvantage upon the other. If the two are competing in the resale of the goods concerned, that relationship exists. Where, also, the price to one is so low as to involve a sacrifice of some part of the seller's necessary costs and profit as applied to that business, it leaves that deficit inevitably to be made up in higher prices to his other customers; and there, too, a relationship may exist upon which to base the charge of discrimination. But where no such relationship exists, where the goods are sold in different markets and the conditions affecting those markets set different price levels for them, the sale to different customers at those different prices would not constitute a discrimination within the meaning of this bill."

has found expression in the decisions of the federal courts in primary-line competition cases, which consistently emphasize the unreasonably low prices and the predatory intent of the defendants.¹³ Respondent also urges that its view is grounded upon the statutory scheme of § 2 (a), which penalizes sellers only if an anticompetitive effect stems from a *discriminatory* pricing pattern, not if it results merely from a low price. Thus, the argument goes, unless there is proof that high prices in one area have subsidized low prices in another, the price differential does not fall within the compass of the section. In such a case, it is contended, § 3 of the Robinson-Patman Act, 49 Stat. 1528, 15 U. S. C. § 13a, may be applicable, but not § 2 (a).¹⁴ Finally, respondent argues that, unless its position is accepted, the law will impose rigid price uniformity upon the business world, contrary to sound economics and the policy of the antitrust laws.

The trouble with respondent's arguments is not that they are necessarily irrelevant in a § 2 (a) proceeding, but

¹³ See, e. g., *Porto Rican American Tobacco Co. v. American Tobacco Co.*, *supra*; *Atlas Building Products Co. v. Diamond Block & Gravel Co.*, *supra*; *Maryland Baking Co. v. Federal Trade Comm'n.* *supra*.

¹⁴ Section 3 provides:

"It shall be unlawful for any person engaged in commerce, in the course of such commerce, to be a party to, or assist in, any transaction of sale, or contract to sell, which discriminates to his knowledge against competitors of the purchaser, in that, any discount, rebate, allowance, or advertising service charge is granted to the purchaser over and above any discount, rebate, allowance, or advertising service charge available at the time of such transaction to said competitors in respect of a sale of goods of like grade, quality, and quantity; to sell, or contract to sell, goods in any part of the United States at prices lower than those exacted by said person elsewhere in the United States for the purpose of destroying competition, or eliminating a competitor in such part of the United States; or, to sell, or contract to sell, goods at unreasonably low prices for the purpose of destroying competition or eliminating a competitor."

that they are misdirected when the issue under consideration is solely whether there has been a price discrimination. We are convinced that, whatever may be said with respect to the rest of §§ 2 (a) and 2 (b)—and we say nothing here—there are no overtones of business buccaneering in the § 2 (a) phrase “discriminate in price.” Rather, a price discrimination within the meaning of that provision is merely a price difference.

When this Court has spoken of price discrimination in § 2 (a) cases, it has generally assumed that the term was synonymous with price differentiation. In *Federal Trade Comm’n v. Cement Institute*, 333 U. S. 683, 721, the Court referred to “discrimination in price” as “selling the same kind of goods cheaper to one purchaser than to another.” And in *Federal Trade Comm’n v. Morton Salt Co.*, 334 U. S. 37, 45, the Court said, “Congress meant by using the words ‘discrimination in price’ in § 2 that in a case involving competitive injury between a seller’s customers the Commission need only prove that a seller had charged one purchaser a higher price for like goods than he had charged one or more of the purchaser’s competitors.”¹⁵ The commentators have generally shared this view.¹⁶

These assumptions, we now conclude, were firmly rooted in the structure of the statute, for it is only by equating

¹⁵ See also *Federal Trade Comm’n v. Staley Co.*, 321 U. S. 746, 757; *Samuel H. Moss, Inc. v. Federal Trade Comm’n*, 148 F. 2d 378, 379, 155 F. 2d 1016. Compare *Automatic Canteen Co. v. Federal Trade Comm’n*, *supra*, at 70 n. 10, 71.

¹⁶ See Att’y Gen. Nat’l Comm. Antitrust Rep. 156; Austin, Price Discrimination and Related Problems Under the Robinson-Patman Act (2d rev. ed. 1959), 18-20; McAllister, Price Control by Law in the United States: A Survey, 4 Law and Contemp. Prob. 273, 291-293; Rowe, Price Differentials and Product Differentiation: The Issues Under the Robinson-Patman Act, 66 Yale L. J. 1, 36-38; Comment, 12 Stan. L. Rev. 460, 461. But see Zorn and Feldman, Business Under The New Price Laws, 75.

price discrimination with price differentiation that § 2 (a) can be administered as Congress intended. As we read that provision, it proscribes price differences, subject to certain defined defenses,¹⁷ where the effect of the differences "may be substantially to lessen competition or tend to create a monopoly in any line of commerce, or to injure, destroy, or prevent competition with any person who either grants or knowingly receives the benefit" of the price differential, "or with customers of either of them." See *Federal Trade Comm'n v. Morton Salt Co.*, 334 U. S. 37, 45-47. In other words, the statute itself spells out the conditions which make a price difference illegal or legal, and we would derange this integrated statutory scheme were we to read other conditions into the law by means of the nondirective phrase, "discriminate in price." Not only would such action be contrary to what we conceive to be the meaning of the statute, but, perhaps because of this, it would be thoroughly undesirable. As one commentator has succinctly put it, "Inevitably every legal controversy over any price difference

¹⁷ In addition to the statutory provisions regarding injury to competition, set out at p. —, *supra*, there are other relevant portions of the statute, such as the seller's § 2 (b) defense of "showing that his lower price . . . was made in good faith to meet an equally low price of a competitor" And a proviso to § 2 (a) states:

"That nothing herein contained shall prevent differentials which make only due allowance for differences in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which such commodities are to such purchasers sold or delivered"

And still another proviso to § 2 (a) states:

"That nothing herein contained shall prevent price changes from time to time where in response to changing conditions affecting the market for or the marketability of the goods concerned, such as but not limited to actual or imminent deterioration of perishable goods, obsolescence of seasonal goods, distress sales under court process, or sales in good faith in discontinuance of business in the goods concerned."

would shift from the detailed governing provisions—'injury,' cost justification, 'meeting competition,' etc.—over into the 'discrimination' concept for *ad hoc* resolution divorced from specifically pertinent statutory text." Rowe, Price Differentials and Product Differentiation: The Issues Under the Robinson-Patman Act, 66 Yale L. J. 1, 38.¹⁸

In the face of these considerations, we do not find respondent's arguments persuasive. The fact that activity which falls within the civil proscription of § 2 (a) may also be criminal under § 3 is entirely irrelevant. The partial overlap between these sections, which was to a significant extent the by-product of the tortuous path of the Robinson-Patman bills through Congress,¹⁹ has been widely recognized. "[T]his section [§ 3] does not restrict the operation of the prohibitions, with civil sanctions, of the Robinson-Patman amendments to § 2 (a) of the Clayton Act." *Corn Products Co. v. Federal Trade Comm'n*, 324 U. S. 726, 734.²⁰

¹⁸ See also Austin, Price Discrimination and Related Problems Under the Robinson-Patman Act (2d rev. ed. 1959), 18-20; McAllister, Price Control by Law in the United States: A Survey, 4 Law and Contemp. Prob. 273, 291-293.

¹⁹ See Palamountain, The Politics of Distribution, 188-234; Rowe, The Evolution of the Robinson-Patman Act: A Twenty-Year Perspective, 57 Col. L. Rev. 1059.

²⁰ "Subsection (b) of the Senate amendment . . . appears in the conference report as section 3 of the bill itself. It contains the operative and penal provisions of what was originally the Borah-Van Nuys bill (S. 4171). While they overlap in some respects, they are in no way inconsistent with the provisions of the Clayton Act amendment provided for in section 1. Section 1 prohibits behavior which that amendment prohibits, and takes nothing away from it. On the contrary, where only civil remedies and damages attach to violations of the amendment provided in section 1, section 3 sets up criminal prohibitions as to the particular offenses that are described and attaches to them also the criminal penalties that are provided. H. R. REP. NO. 2651, 74th Cong., 2d Sess. S. . . . (see also *Nash*, 294 U. S. 130).

The other materials adduced by respondent do no more than indicate that the factors in question—predatory intent and unreasonably low local price cuts—may possibly be relevant to other matters which may be put in issue in a § 2 (a) proceeding. For example, it might be argued that the existence of predatory intent bears upon the likelihood of injury to competition,²¹ and that a price reduction below cost tends to establish such an intent.²² Practically all of the legislative materials and court decisions relied upon by respondent are explicable on this basis, since hardly any of them are concerned specifically with the meaning of price discrimination.²³ Moreover, many of the legislative expressions cited by respondent may merely be descriptive of the prototype of the evil with which Congress dealt in § 2 (a), rather than delineative of the outer reach of that section. A possible exception is the statement of Representative Utterback. But the primary function of statutory construction is to effect-

Co., 355 U. S. 373, 378; Austin, *Price Discrimination and Related Problems Under the Robinson-Patman Act* (2d rev. ed. 1959), 3-4, 108 U. of Pa. L. Rev. 116, 121; 45 Va. L. Rev. 1397, 1400; sources cited in note 19, *supra*.

²¹ Of course we do not depart from our holding in *Federal Trade Comm'n v. Morton Salt*, *supra*, at pp. 50-51, as to adequacy of proof of tendency to injure competition in cases involving discrimination between purchasers. The instant case, as we have pointed out, involves differences in prices among competing sellers.

²² See *Balian Ice Cream Co. v. Arden Farms Co.*, *supra*, at 369; Att'y Gen. Nat'l Comm. Antitrust Rep. 165; Rowe, *Price Discrimination, Competition, and Confusion: Another Look at Robinson-Patman*, 60 Yale L. J. 929, 956; Comment, 65 Yale L. J. 34, 74-75; Comment, 49 N. W. U. L. Rev. 197, 215, 224. But cf. *Nashville Milk Co. v. Carnation Co.*, 355 U. S. 373, 378; *Federal Trade Comm'n v. Rubenoid Co.*, 343 U. S. 470, 484 (dissenting opinion).

²³ Perhaps it is worth noting in this connection that the Senate and House committee reports appear to use the words "discrimination" and "differential" interchangeably. See H. R. Rep. No. 2287, 74th Cong., 2d Sess. 10; S. Rep. No. 1502, 74th Cong., 2d Sess. 5.

tuates the intent of Congress, and that function cannot properly be discharged by reliance upon a statement of a single Congressman, in the face of the weighty countervailing considerations which are present in this case.²⁴

Nothing that we have said, of course, should be construed to be the expression of any view concerning the relevance of the factors stressed by respondent to statutory standards other than price discrimination. We wish merely to point out, on the one hand, why respondent's arguments in our view are not pertinent to the issue at bar, and, on the other, that we are not foreclosing respondent from urging in the Court of Appeals that such arguments are material to issues not now before us.

What we have said makes it quite evident, we believe, that our decision does not raise the specter of a flat prohibition of price differentials, inasmuch as price differences constitute but one element of a § 2 (a) violation. In fact, as we have indicated, respondent has vigorously contested this very case on the entirely separate grounds of insufficient injury to competition and good faith lowering of price to meet competition. Nor is it relevant that the Commission did not proceed upon the basis of the respondent's price differentials which existed prior to the period in question in this case. This choice is committed to the discretion of the Commission; and it may well be that the Commission did not believe the remaining statutory elements could be established with respect to other differentials. Our interest is solely with this case, and at this

²⁴ Representative Utterback's comment has been criticized as "ambiguous and misleading and . . . too often accepted without analysis." Austin, *Price Discrimination and Related Problems Under the Robinson-Patman Act* (2d rev. ed. 1959), 18. It is, of course, possible that the Congressman was so intent upon the immediate problem—protection of secondary-line competition—that he did not reflect upon the significance of his statement when applied to primary-line cases.

stage of the litigation that interest is confined exclusively to identifying and keeping distinct the various statutory standards which are part of the § 2 (a) complex.

The judgment of the Court of Appeals is reversed and the case is remanded to that court for further proceedings not inconsistent with this opinion.

Reversed.